

WHISTLE BLOWING POLICY

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As part of our focus on diversity and inclusion, BDAT pledges that our policies will seek to promote equality, fairness, and respect for all staff and students. Our policies reflect the BDAT values of inclusion, compassion, aspiration, resilience, and excellence. By working closely with a range of stakeholders, such as our school, union, and HR colleagues, we have ensured that BDAT's policies do not unlawfully discriminate against anybody.

1. Introduction

The Trust takes seriously its responsibilities for good governance, the delivery of effective public services and the appropriate and efficient use of public money and resources. Where any member of staff has a concern that might fall within the scope of this document, they are encouraged to report the matter to the management of the Trust or the Chair of Governors, as appropriate.

The Trust is committed to the highest possible standards of transparency and accountability. The Trust is also committed to improving the performance of all its functions.

“Whistleblowing” is a disclosure in the public interest of certain information to an employer, other responsible person or body by an individual who knows, or suspects, that an organisation is responsible for/is about to/has taken part in specified wrongdoing. This policy is intended to encourage and enable staff to raise serious concerns within the Trust, by setting out the process to make a disclosure under the Public Interest Disclosure Act 1998.

The Trust accepts that some staff may prefer to do this in a confidential way to avoid any public disclosure of their identity. This Policy makes it clear that staff can raise concerns of illegal or improper conduct without fear of victimisation, subsequent discrimination or disadvantage. Further guidance on confidentiality can be found in section 2.4.

The Policy applies to all **staff, volunteers, and members of the Local Governing Bodies** of the Trust. To be ‘**staff**’ an individual must:

- Work for the Trust under a contract of employment
- Be contractually required to perform personal work or services for the Trust and the Trust is not either a client or customer of a profession or business undertaking work carried out by that individual
- Be on a work experience placement provided pursuant to a training course or programme or training for employment (or both)

2. Aims and Scope

This policy aims to:

- Encourage you to feel confident in raising serious concerns of illegal or improper conduct, and to question and act upon concerns about practice.
- Provide a way for you to raise those concerns and to be told of any action taken to address concerns.

- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if internal processes are not successful.
- Reassure you that you will be protected from possible reprisal or victimisation if you have a reasonable belief that you have made any disclosure in the public interest.

2.1 Qualifying Disclosures

The law provides protection for staff who raise legitimate concerns about specified matters. These are called "qualifying disclosures". This policy is not designed to replace or be used as an alternative to the grievance procedure.

A qualifying disclosure is one made in the public interest by a member of staff who has a reasonable belief that one of the following is being, has been or is likely to be committed:

- a minor or serious criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- unauthorised use of public funds
- an act of fraud or corruption
- sexual or physical abuse of students
- a breach of any other legal obligation; or
- concealment of any of the above;

2.2 Protected Disclosures

The Trust is committed to good practice and high standards and wants to be supportive of staff. Any disclosure of information as detailed above will only be a protected disclosure if it is made in the reasonable belief of the staff that the disclosure is **in the public interest**.

A disclosure must be made for the right reason and motivation. The reason for the disclosure may be in the past, present, or future; for example, a disclosure qualifies if it relates to environmental damage that has happened, is happening, or is likely to happen. The employer is committed to taking any concerns that an employee may raise in any of the above circumstances very seriously. It may often be the case that the whistle-blower is not directly or personally affected by the danger or illegality.

No member of staff who uses this procedure in the reasonable belief that the disclosure is in the public interest will be penalised for doing so. A member of staff has the right not to be subjected to a detriment, including dismissal, by any act or deliberate omission by another member of staff employed by the Trust on the ground that they have made a protected disclosure.

The Trust will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect staff when they raise a concern that they believe is in the public interest to disclose.

Any member of staff that is found to have made an allegation frivolously, maliciously or for personal gain may be subject to disciplinary procedures.

2.3 Distinction with Individual Grievances

A concern raised by a member of staff about breach of their employment contract or an individual work concern will generally not be protected; these concerns should be raised using the Trust's Staff Complaints and Grievance Procedure.

NB. Any general concerns about a colleague's professional capability should not be dealt with using this procedure.

2.4 Confidentiality and Anonymous allegations

A concern reported under this Policy will be treated confidentially. Unless the member of staff agrees, their identity will not be disclosed by the Trust in dealing with their concern within this Policy. One reason for confidentiality is that without it, it can lead people to focus on the whistle-blower and perhaps begin to suspect that they are raising the concern maliciously.

However, this Policy encourages staff to put their name to allegations whenever possible. It is harder for those tasked with investigating the concern if they cannot ask follow-up questions and it is easier to get protection under the Public Interest Disclosure Act if the concerns are raised openly. Concerns expressed anonymously will still be considered by the Trust.

In exercising this discretion, the seriousness of the issues raised must be taken into account. Following investigation, the credibility of the concern and the likelihood of confirming the allegation from attributable sources will be important factors to consider.

In the event of a concern disclosing alleged criminal activity, the member of staff may be asked to help the police or other appropriate enforcement agencies.

2.5 Untrue Allegations

If a member of staff believes that the claim was made in the public interest, but the claim is not confirmed following investigation, no action will be taken against the member of staff. However, maliciously making a false allegation is a disciplinary offence. If a claim is made frivolously, maliciously or for personal gain, then disciplinary action may be taken against the member of staff.

3. How to Raise a Concern

As a first step, staff should raise concerns with their immediate manager or the Head teacher/Principal. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if staff believe that Senior Management or the Head teacher/Principal are involved, they should approach the Chair of Governors. There is no legal requirement that the disclosure must be made in a certain way to a specific person within the organisation.

The earlier a concern is expressed, the easier it is to take action.

Depending on the nature of the concern, the complainant will need to demonstrate to the person contacted that there are reasonable grounds for their concern. Concerns may be raised verbally or, preferably, in writing. Staff who wish to make a written report are invited to use the following format:

- The background and history of the concern (giving relevant dates).
- The reason why they are particularly concerned about the situation.
- Why they think this concern is in the public interest to disclose

Advice/guidance on how to pursue matters of concern may be obtained from any of the names listed at the back of this policy.

Staff are advised to seek the advice of their trade union representative before making any disclosure. Staff may also invite a trade union representative, or work colleague, to be present during any meetings or interviews in connection with the concerns that they have raised.

In accordance with the Academy Trust Handbook (September 2021), the Trust has nominated at least one Trustee and one member of staff to whom other staff can contact to report concerns. The following are nominated Trust contacts:

Mrs Tessa Mason, Trustee
Mr Tony Hesselwood, Trustee
Ms Carol Dewhurst, Chief Executive Officer

3.1 How the Trust will respond

Initially all concerns raised under this Policy will be referred to the Head teacher/Principal and/Chair of Governors and/or Chair of Trustees who may take legal and professional advice as required. The reported matter may:

- be investigated by management, Internal Audit, or through the disciplinary process.
- be referred to the police.
- be referred to the external auditor
- form the subject of an independent inquiry.

In order to protect individuals and those accused of illegal or improper conduct, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

Concerns or allegations, which fall within the scope of specific procedures (for example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

Within 10 working days (excluding periods of academy closure) of a concern being referred to the Chair of Governors/Chair of Trustees, they will write to the complainant:

- Acknowledging that the concern has been received.
- Indicating how the matter is to be dealt with.
- Giving an estimate of how long it will take to provide a final response, telling you whether any initial enquiries have been made.
- Telling you whether further investigations will take place and if not, why not.

The amount of contact between the persons considering the issues and the complainant will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, the Trust may seek further information from the complainant.

The Trust will take steps to minimise any difficulties that complainants may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings the Trust will arrange for advice on the process to be given.

The Trust accepts that the complainant expects to be assured that the matter has been properly addressed. The Chair of Governors/Chair of Trustees, subject to any legal constraints and data protection, will inform the complainant of the outcome of any investigation that may take place in writing.

Please note, whistleblowers will not be given any information regarding possible sanctions against the staff member that the concerns were raised about.

3.2 The Responsible Officer

The Chair of Governors has overall responsibility for the implementation of this policy.

4. How the matter can be taken further

Disclosures can also be made to the individual or organisation with legal responsibility for the situation in respect of which the disclosure is made, even if this means they are not the employer; in this case the policy should not exceed the two conditions:

1. Disclosure should be 'in good faith'.
2. The employee must reasonably believe the failure being disclosed relates 'solely or mainly' to the conduct of that person (to whom the disclosure is being made); or any other matter for which that person has legal responsibility.

This policy is intended to provide staff with a process for raising concerns within the Trust. The Trust hopes staff will be satisfied with any action taken. If they are not, and feel they wish to take the matter outside the Trust, the following are possible contact points:

- The Trust's external auditor
- The Audit Commission (confidential reporting for suspected fraud)

- Your trade union
- Your local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- A relevant voluntary organisation
- The police
- The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk

If a member of staff chooses to disclose the matter outside the Trust, they must ensure that confidential information is not disclosed to any person who is not authorised to receive it.

An untrue allegation that a person has committed a criminal offence may be defamatory. Concerns raised within the Trust under this Policy will normally be protected by qualified privilege as a defence to defamation proceedings unless made maliciously.

If a disclosure is made to a legal advisor, then no restrictions can be imposed on the reason for disclosure, providing the disclosure is made in the context of obtaining legal advice.