

Policy and Procedure: Whistle Blowing

Updated: May 2019

Review date: February 2021

Background

The Public Interest Disclosure Act 1998 ("the Act") came into force on 1 January 1999. It provides employees with legal protection against dismissal or detriment for raising concerns about matters in the public interest. The Act seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

Policy

The Academy is dedicated to ensuring that standards within the Academy are high and that all statutory regulations and requirements are complied with. It will take seriously any concerns relating to malpractice within the organisation including suspected allegations of: **financial irregularities; corruption; bribery; creating or ignoring a serious risk to health, safety or the environment; failure to comply with a legal obligation; a miscarriage of justice; criminal activities; serious abuse or fraud.**

Serious malpractice may involve governors, managers, colleagues/clients or suppliers of goods and services to the organisation.

The Academy has, therefore, introduced this procedure to enable you to raise your concerns about serious malpractice which are in the public interest at an early stage through internal Trust procedures. This policy and procedure seeks to balance the need to allow a culture of openness against the need to protect other employees against vexatious allegations or allegations which are not well-founded.

Procedure

- This procedure should not be confused with the procedure on dealing with harassment at work or the Academy Grievance and Disciplinary procedures. A whistle blower is not usually directly or permanently affected by the concern. They are a witness, not a complainant. This procedure is not for anonymous complaints and should not be used to raise individual concerns regarding terms and conditions of employment.
- Any concerns about malpractice should be raised internally, verbally or in writing, with either the Principal or in their absence the Assistant Principals.
- Anyone feeling unsure can seek confidential advice at any time from Public Concern at Work, a registered charity which advises on serious malpractice in the workplace on 020 7404 6609 or email helpline@pcaw.co.uk. Public Concern at Work is also able to advise whether you can or should take the concern further.

Applicability of this Policy and Procedure

This policy applies to all employees of the Academy, including apprentices; casual workers, home-based workers and agency workers engaged by the Academy.

Protected Disclosures

The law allows employees to raise what it defines as a 'protected disclosure' which the employee believes to be in the public interest. In order to be a 'protected disclosure', a disclosure must relate to a specific subject matter (see below) and must also be made in an appropriate way. A 'protected disclosure' must, in the reasonable belief of the employee making it, also be made in the public interest and must consist of information and not merely be allegations of suspected malpractice.

Specific Subject Matter

If, in the course of employment, an employee becomes aware of information which they reasonably believe tends to show one or more of the following, they must use this policy and procedure:

- That a criminal offence has been committed is being committed or is likely to be committed.
- That an individual has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject.
- That a miscarriage of justice has occurred, is occurring, or is likely to occur.
- That the health and safety of any individual has been, is being, or is likely to be, endangered.
- That the environment, has been, is being, or is likely to be, damaged.
- That information tending to show any of the above, is being, or is likely to be, deliberately concealed.

Assurances

- Concerns raised under the procedure will be treated seriously and sensitively.
- Where practicable, immediate steps will be taken to remedy the situation. The final outcome may take longer, depending on the issue that is raised.
- We will make every effort to keep your identity confidential, if you wish this to be the case. Where this may cause difficulties, (for example, if the Academy is legally obliged to do so, for the purposes of seeking legal advice or if you are asked to give evidence), you will be told and we will discuss the options with you.
- No formal disciplinary action will be taken against an employee on the grounds of making a disclosure under this policy or procedure. This does not prevent the Academy from bringing disciplinary action against an employee where the Academy has grounds to believe that a disclosure was made maliciously or vexatiously, or where a disclosure is made outside the Academy without reasonable grounds.
- Equally, the Academy will not tolerate any harassment, bullying or victimisation of an employee by a colleague for making a disclosure and disciplinary action will be taken by the Academy against the colleague in question.

What Happens Next?

Having alerted us to the concern, it is our responsibility to investigate the matter quickly. The initial stage will be to interview you, in confidence, and then assess what further action should be taken. We will seek to do this within a reasonable period (usually 5 working days) of you raising your concern.

We will look into your concern carefully and thoroughly. We have to be fair to you, but also to any others involved. If someone is potentially being accused of serious misconduct, we have to find out their side of the story as well.

We will respect any concerns you have expressed about your safety or career.

You may bring a work colleague or trade union representative along with you at any interviews that are arranged, providing that person is not involved in the area of work to which the concern relates. This person should attend to provide support only, and will not be allowed to become involved in the proceedings. They can however, assist you in putting forward your representations but cannot answer questions on your behalf.

If it is felt that the concern can be resolved quickly, or in a straightforward manner, it will be brought to the attention of the appropriate manager. This may lead to other processes being implemented such as the disciplinary procedure.

Where the matter requires more detailed consideration, either because of the complexity of the concern, or the possibility of other proceedings, an investigating officer will be appointed and a formal investigation will be carried out.

If the Academy determines that the disclosure does not have sufficient merit to warrant further action, you will be notified in writing of the reasons for the Academy's decision and advised that no further action will be taken by the Academy under this policy and procedure.

What the Trust Asks of You

The purpose of this procedure is to enable you to raise your concerns within the Academy in confidence, without any fear of reprisal. We, therefore, ask that:

- You do not take your concerns outside the Academy other than as stated in this procedure.
- When raising your concern you declare any personal interest you have in the matter as you should raise the matter in the interest of the public and not use this policy for individual matters.

At the End of the Process

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

Normally, we will try to let you know, in writing, the results of our assessment/investigation and about any action that is proposed, subject to third party rights. Correspondence will be addressed to your home address. Where action is not taken, you will be given an explanation.

Appeal Process

If you disagree with the decision you may, within two weeks of receiving that notification, request in writing, to the Principal or, if the matter involves the Principal, to the Chair of Governors/Trustees, a review of the decision stating your grounds for requesting the review.

Access to External Bodies

If, having exhausted internal procedures, an allegation is found to be unsubstantiated; the individual raising the concern has the right to access an appropriate official and independent external body. An appropriate body might be the Academy internal or external auditors, the SFA/ESFA an MP or local Councillor. Such a step, however, would have serious implications for the Academy and should only be taken after very careful consideration. Advice may be sought from 'Public Concern at Work' (details above) before taking such action.

Signed: *Harnek Singh*

Date: *16/05/2019*

Harnek Singh, Chair of Governors