



Whistle Blowing Procedure

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Latest Review: February 2017



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1 Introduction

- 1.1 In employment, there needs to be provision for the right of individual members of staff to speak freely on a range of matters, whilst also ensuring the right of Prospect Education (Technology) Trust (The Trust) and the Academy itself (hereinafter referred to purely as the Academy) or colleagues within the Academy to protect themselves against false allegation and malicious accusation. The Academy believes in the highest standards of openness, probity and accountability and as such this procedure exists to provide a route for employees to raise any serious concerns they may have relating to Academy operations.
- 1.2 A whistle blowing procedure is designed to provide a legitimate mechanism through which concerns about malpractice may properly be raised and dealt with within the Academy and if necessary outside the Academy. The Academy expects employees with serious concerns about any aspect of the Academy's work or practice to come forward and voice these, through the relevant reporting channels.
- 1.3 This procedure is not a substitute for normal line management processes and is established only for the purpose of raising concern about wrongdoing and is not a replacement for existing procedures such as the Grievance Policy, the Disciplinary and Dismissals Procedure for Staff or the Complaints Procedure. The Academy hopes that in a majority of cases, staff will be able to raise their concerns with immediate line management and for any such concerns to be resolved quickly and effectively as a result.

2 Definition

- 2.1 Whistle blowing inside the work place is the reporting by workers or ex-workers, of wrongdoing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of Academy's Leadership Group (LG), the Board of Trustees, the Executive Board, the Finance and Resources Committee (FRC) or by fellow employees. By way of further definition, workers may include, for example, contractors and agency staff.

3 Principles Supporting the Procedure

3.1 The creation of an ethical, open culture that encourages the raising of issues giving cause for concern:

The Academy publishes a range of policies aside from this policy which relate to day to day operations and expected staff conduct within these as outlined in 1.3 above.

3.2 Establishes safe routes for communications of concerns or examples of malpractice:

This procedure provides opportunity for staff outside of their standard line management channels to raise complaints of irregularities or other concerns. Malpractice in this context includes but is not restricted to:

- i. Commission of a criminal offence;
- ii. Failure to comply with a legal or regulatory duty;
- iii. Miscarriage of justice;
- iv. Endangering health and safety or the environment;
- v. Maladministration of financial, academic or professional malpractice;
- vi. Unethical behaviour or improper conduct;
- vii. Sexual, racial, physical or other abuse of students or colleagues;
- viii. Unauthorised disclosure of confidential information;
- ix. Child protection and/or safeguarding concerns;

- x. Damage to the environment;
- xi. Negligence;
- xii. Concealment of any of the above.

3.3 Protection for the whistle blower:

The Academy will support and not discriminate against employees who raises such concerns provided any such claim is made in good faith.

3.4 Establishes a fair and impartial investigative procedure:

The Academy responds to the concern professionally and objectively by focusing on the problem raised, rather than denigrating the messenger.

3.5 Duty of confidentiality:

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 such information is disclosed by way of the Freedom of Information Act 2000 or other statutory requirement, unless the Academy fails to properly consider or deal with the issue.

3.6 Safeguarding against abuse of the procedure:

The Academy considers that the malicious raising of unfounded allegations is recognised as a disciplinary offence and to treat such matters accordingly and in line with the published Disciplinary and Dismissals Procedure for Staff in place at the Academy.

3.7 Upholding the right to disclose a concern:

The individual member of staff has the right to disclose a concern/issue if the Academy does not deal with the matter.

3.8 Involvement of the FRC and the Academy's LG in developing and reviewing the procedure:

To be fully effective there is full organisational ownership of a whistle blowing procedure, through the involvement of the Leadership Group and the Finance and Resources Committee in agreeing the procedure.

3.9 Further review:

Ensure there is an additional review mechanism using the comments and experience of those who may have had reason to invoke the whistle blowing procedure.

4 Legislation

4.1 The Public Interest Disclosure Act 1998 is designed to provide some employment protection rights to 'whistle blowers' from detriment and unfair dismissal. Those protected by the Act include workers, employees, third party contractor staff, agency workers and work experience providers.

4.2 Students may also have information that should be raised in the public interest and there should be the proper procedures in place for them to air their concerns.

5 The Procedure

- 5.1 All parties need to agree that the issue raised will be kept confidential while the procedure is being used and investigated.
- 5.2 The Discloser (the person raising the concern) should:
- i Raise their concern with their line manager or the Principal. This may be done orally or in writing. The Discloser has the right to have the matter treated confidentially.
 - ii If the line manager or Principal believes the concern to be genuine and that it is appropriate to use the Whistle Blowing procedure, the manager should contact the Director of Resources in their role as Clerk to the Executive Board (the Assessor).
 - iii Should it be alleged that the Clerk to the Executive Board is involved in the alleged malpractice, the Chair of the FRC should be contacted to act as Assessor.
 - iv If the Discloser feels unable to raise their concern with their line manager or the Principal in the first instance, they may contact the Assessor direct. If this occurs the Discloser will be asked to justify why they feel unable to raise the concern with their line manager or the Principal.
- 5.3 The Assessor should:
- i interview the Discloser within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury;
 - ii obtain as much information as possible from the Discloser about the grounds for the belief of malpractice;
 - iii consult with the Discloser about further steps which could be taken;
 - iv advise the Discloser of the appropriate route if the matter does not fall under the Academy's Whistle Blowing Procedure;
 - v report all matters raised under this procedure to the Chair of the FRC for the Academy.
- 5.4 At the interview with the Assessor, the Discloser 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.
- 5.5 Within ten working days of the interview, the Assessor will recommend to the Principal one or more of the following:
- i the matter be investigated internally by the Academy;
 - ii the matter be investigated by the external auditors appointed by the Academy;
 - iii the matter be reported to the Department for Education (DfE);
 - iv the matter be reported to the Police;
 - v the route for the member of staff to pursue the matter if it does not fall within this procedure; or

vi that no further action is taken by the Academy.

5.6 The grounds on which no further action is taken include:

- i 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;
- ii the Assessor is satisfied that the Discloser is not acting in good faith;
- iii the matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;
- iv the matter concerned is already the subject of legal proceedings, or has already been referred to the Police, the external auditors, the DfE or other public authority.

5.7 Should it be alleged that the Principal is involved in the alleged malpractice, the Assessor's recommendation will be made to the Chair of the FRC for the Academy.

5.8 The recipient of the recommendation (Principal or Chair of the FRC) 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 FRC.

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

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

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

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

5.12 If the Discloser has not had a response within the above time limits, they may appeal to the authority referred to in 5.6 iv above, but will inform the Assessor before doing so.

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

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

6 Malicious Accusations

6.1 Deliberately false or malicious accusations made by a Discloser will be dealt with under the Academy's Disciplinary and Dismissals Procedure for staff.

7 External Sources

7.1 This policy is intended to provide you with a clear route to raise concerns within the Academy and for the concerns to be dealt with and settled appropriately. However, if you feel that this has not happened, and if you feel it is right to take the matter outside the Academy, please contact either:

- The National Audit Office, which has set up a special telephone hotline on: 020 3798 7999 or write to:

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London SW1W 9SP

- The Police (where your concern related to a criminal matter).

7.2 Please use only these routes to raise a concern externally. Complaints made to other bodies, individuals or the media may actually hamper a speedy, full and professional investigation of the concern that you have expressed.

7.3 Information which is provided to you on a confidential basis must be treated as such and this may only be overridden where there is a clear public interest in disclosing it and you act in good faith and reasonably. You would need to ensure that you could justify your disclosure because it would be a serious betrayal of trust to use confidential information for any personal advantage, or for malicious or other improper reasons.

8 Self Reporting

There may be occasions when a member of staff has a personal difficulty, or perhaps a physical or mental health problem, which they know to be impinging on their professional competence. Staff have a responsibility to discuss such a situation with their line manager in order that professional and personal support can be offered to the staff member concerned. Whilst such reporting may remain confidential in most situations, this cannot be guaranteed where personal difficulties raise concern about the welfare or safety of staff or students.

9 Further Advice

If an individual is in any doubt in relation to procedure or enforcement of this policy, they may seek advice from Public Concern at Work, the independent whistleblowing charity, who offer a confidential helpline. Their contact details are:

Helpline: 020 7404 6609
Email: whistle@pcaw.co.uk
Website: www.pcaw.co.uk

10 Monitoring, Evaluation and Review

10.1 The LG for the Academy and the Academy's FRC will review this policy at least every three years and assess its implementation and effectiveness. The policy will be promoted and implemented throughout the Academy.

10.2 Any employee who is dissatisfied with the application of this modified policy for Academy employees, should initially contact the Chair of the FRC.

