

The Family of Learning Trust

Whistleblowing Policy



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1. Introduction

- 1.1 The 1998 Public Interest Disclosure Act inserted provisions into the Employment Rights Act 1996 to give protection against victimisation or dismissal to ‘whistleblowers’ who, by making a ‘protected disclosure’, raise concerns about serious fraud or malpractice at their place of work, provided they have acted in a responsible way in dealing with their concerns.
- 1.2 For the disclosure to be protected by the law 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’
 - 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 necessarily rely (despite this being the intended purpose of said amendment) on the 2013 amendment to the Public Interest Disclosure Act 1998 (ie the change in 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

- 2.1 This policy may be used by all workers and staff members at the academy to raise concerns where the wellbeing of others or that of the academy itself is at risk, for instance with regard to the commission of criminal offences or employment of practices endangering health and safety.
- 2.2 The terms ‘worker’ and ‘staff member’ in this policy broadly include the following: employees; contractors; agency workers; trainees; and any person who is or was subject to a contract to undertake work or services for the academy.
- 2.3 The policy encourages staff to feel confident in raising serious concerns and to question and act upon concerns about practices within the academy. It aims to establish a fair and impartial investigative procedure and ensure that staff receive a response to concerns and are aware of how to pursue them if they are not satisfied.
- 2.4 This policy enables the academy 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 academy’s other procedures (eg health and safety). These include (this list is not exhaustive):
- possible fraud and corruption
 - unauthorised use of school funds
 - failure to comply with school financial regulatory and compliance matters
 - failure to comply with Codes of Practice
 - conduct which is an offence or a breach of law
 - health and safety risks including risks to children, public and colleagues

- damage to the environment
- other unethical conduct.

3. Employer responsibility

- 3.1 As the employer of staff in the academy the Academy Trust has overall legal responsibility for ensuring that the academy has a whistleblowing policy. The governing body is responsible for the running of the academy and through academy management will maintain a record of concerns raised and outcomes (in a format that will not compromise confidentiality).
- 3.2 The academy recognises that the decision to report a concern can be a difficult one, not least because of fear of reprisals from those responsible for the alleged failure or malpractice. The academy does not tolerate harassment or victimisation and will take all necessary action to protect staff members when a concern is raised, being conscious of its vicarious liability for any employee's conduct should this amount to victimisation of a whistleblower.

4. How to raise a concern

- 4.1 Concerns are most appropriately raised in writing. Any submission should set out the background and history of the problem, 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 for this concern. It is advised that the earlier a concern is raised the easier it is to take action.
- 4.2 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.
- 4.3 A form for recording the concern is available for use at Appendix 1.
- 4.4 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

- 5.1 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

- 6.1 Anyone bringing 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. If, however, the staff member does not wish to disclose their identity this could make it difficult to proceed with the matter.
- 6.2 Anonymous allegations are much less powerful and less likely to be effective although they may be considered by the academy.
- 6.3 Following discussions staff may consider raising a matter if there are two or more individuals who have had the same experience or have the same concerns. Care and judgement must, however, be exercised in all cases. Due consideration must be given to whether there are reasonable grounds for concern.

7. Raising a concern – internal procedure

- 7.1 A concern can be raised in writing or orally if preferred.
- 7.2 The staff member should raise their concern with the headteacher or line manager (as appropriate) or, if the complaint is about the headteacher, with the chair of governors. If the complaint is about 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 paragraph 8.2).
- 7.3 The action taken by the headteacher (or chair of governors) or line manager 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 academy's disciplinary procedure should the concern relate to the conduct of an employee (or employees).
- 7.4 An initial assessment should be made to decide whether an investigation is appropriate and if so what form this should take. Concerns or allegations that fall within the scope of other specific procedures (such as child protection) will normally be referred for consideration under those procedures.
- 7.5 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 headteacher (or chair of governors) or line manager will write to the staff member raising the issue:
- acknowledging receipt of the concern
 - indicating how it is proposed to deal with the matter
 - indicating whether an initial enquiry has been made
 - indicating whether further investigations will take place, and if so,
 - giving an estimate of length of time to provide a substantive response.
- 7.6 The amount of contact between the person who considers the above issues and the staff member bringing the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought.
- 7.7 Subject to legal and confidentiality restraints, the staff member will receive information about the outcomes of any investigations.

8. Raising a concern – external procedure

- 8.1 Whistleblowing to an external body without initially going through the internal procedure is inadvisable without compelling reason. Compelling reasons could be the involvement of senior management or serious health and safety issues.
- 8.2 The following bodies are the external regulatory authorities ('prescribed persons') who are most likely (within an educational setting) to be regarded as legitimate bodies to be contacted in accordance with legal protection for whistleblowers should a staff member feel that it is appropriate to take the matter outside of the academy (the list is not exhaustive):
- Ofsted
 - Ofqual

- National Audit Office

8.3 Members of Parliament also qualify as 'prescribed persons'.

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

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

Name of Academy:

<p>Name: (staff member making report - not compulsory but you are encouraged to insert your name)</p>	
<p>Persons reported:</p>	
<p>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)</p>	
<p>Date:</p>	
<p>Signed: (if name appears above)</p>	