

The Diocese of Sheffield Academies Trust

WHISTLEBLOWING POLICY

2020-21



Approved by: DSAT Trust Board

Last reviewed on: 9th November 2020

Next review due by: 9th November 2021

THE DIOCESE OF SHEFFIELD ACADEMIES TRUST

WHISTLE BLOWING POLICY

WHAT IS 'WHISTLEBLOWING'?

Whistleblowing inside the work place is the term used to describe reporting by employees or ex-employees, of wrongdoing on the part of management, the Governing Body or by fellow employees. Wrongdoing may include for example, fraud, corruption, malpractice, breach of health and safety law, any other illegal or unethical act or breaches of the Academy Code of Conduct. Employees may, for this purpose include, for example, contractors and agency workers.

The law provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the Trust's responsibility to ensure that an investigation takes place.

A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because he/she has made a disclosure. The Trust encourages workers to raise their concerns under this procedure in the first instance. If a worker is not sure whether or not to raise a concern, he/she should discuss the issue with his/her line manager, a more senior person or the CEO.

PROTECTING THE WHISTLEBLOWER

Under the Public Interest Disclosure Act 1998 a Whistleblower is protected from detriment and unfair dismissal. The Academy will support and not discriminate against concerned employees who apply the Whistleblowing procedure, provided any claim is made in good faith. The Trust encourages all individuals to raise any concerns that they may have about the conduct of others in the operation of the Diocese or the way it is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

WHEN SHOULD WHISTLEBLOWING PROCEDURES BE USED?

Each individual member of staff should feel able to speak freely on such matters. However, the Academy and colleagues have the right to protect themselves against unfounded false or malicious accusations.

Whistleblowing should only be used when the party implementing the procedure (Representor) has reasonable grounds for believing that a serious offence has been or may be committed. It must never be used without good grounds, falsely or maliciously.

Whistleblowing is not appropriate for dealing with issues between an employee and the Academy which relate to the employee's own employment or rights or employment conditions generally. Alternative dispute resolution procedures for that purpose are outlined in the employment terms and conditions.

Whistleblowing is not appropriate for dealing with pupil complaints, which will be dealt with under separately published procedures.

Whistleblowing is not appropriate to specific cases of child safety or safeguarding which will be dealt with under the procedures specified in that connection. If any staff member has concerns that a pupil is being dealt with unfairly in school, they should raise their concern, in the first instance with the Headteacher or Child Protection Officer.

THE PROCEDURE

Any issue raised will be kept confidential while the procedure is being used.

The Representor (the person raising the concern) should raise their concern with their line manager. This may be done orally or in writing.

However, if the concern relates to the Representor's line manager or any person to whom he or she reports, other than the Headteacher, the Representor should raise the issue with the Headteacher;

If the concern relates to the Headteacher, the Representor should raise the matter with the Chair of the Governing Body.

The person with whom the matter is raised is referred to as the "Assessor".

The Assessor will:

- Interview the Representor as soon as possible within seven working days, in confidence. Early interview will be essential if the concern relates to an immediate danger to loss of life or serious injury or risk to pupils;
- Obtain as much information as possible from the Representor about the grounds for the belief of wrongdoing;
- Consult with the Representor about further steps which could be taken;
- Advise the Representor of the appropriate route if the matter does not fall under this Procedure;
- Other than in the case of paragraph 4.4, report all matters raised under this procedure to the Chair of the Governing Body.

At the interview with the Assessor, the Representor 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.

The Assessor may at any time disclose the matter to a professionally qualified lawyer for the purpose of taking legal advice. The Assessor may also discuss the issue, in confidence, to other suitable professionals, such as independent HR consultants or school governance providers in order to assess the nature of the case and to inform the outcome of the investigation.

Promptly within ten working days of the interview, the Assessor will recommend one or more of the following:

The matter be further investigated internally by the Academy;

- The matter be referred to The Diocese of Sheffield Academies Trust, in which event the Assessor and CEO will undertake investigation
- The matter be reported to an appropriate external agency such as the EFA or the police
- The route for the Representor to pursue the matter if it does not fall within this procedure; or
- That no further action is taken by the Academy

The grounds on which no further action is taken include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that wrongdoing within the meaning of this procedure has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representor is not acting in good faith;
- The matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;
- The matter concerned is already (or has been) the subject of legal proceedings, or has already been referred to an external agency.

The recommendation of the Assessor will be made to the Headteacher. However, should it be alleged that the Headteacher is involved in the alleged wrongdoing; the recommendation will be made to the Diocese of Sheffield Academies Trust CEO.

The Headteacher or Chair of the Governing Body, as appropriate, will ensure that the recommendation 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 Governing Body and Academy Trust.

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

Where the Assessor is under a legal obligation to do so;

Where the information is already in the public domain; or

On a legally privileged basis to a professionally qualified lawyer for the purpose of obtaining legal advice.

The conclusion of any agreed investigation will be reported by the Assessor to the Representor promptly within twenty eight working days of the initial interview.

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

If the Representor has not had a response within the above time limit or such reasonable extension as the Academy requires, the Representor may go to an appropriate external agency, under paragraph 6, but will inform the Assessor before doing so.

The Representor may at any time disclose the matter on a legally privileged basis to a professionally qualified lawyer for the purpose of taking legal advice.

MALICIOUS ACCUSATIONS

A deliberately false or malicious accusation made by a Representor is a disciplinary offence and will be dealt with under the Academy's disciplinary procedure, as well as potentially exposing the Representor to legal liability.

INFORMING EXTERNAL AGENCIES

Within the Academy all staff have a duty of confidentiality. The duty of confidentiality 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 the information is disclosed or unless the Academy fails to follow required procedures. Other legal restrictions on the disclosure of information, for example under data protection legislation, may also apply.

Whistleblowing to an external agency without first going through the internal procedure is a breach of the Academy's Code of Conduct. The external agencies which may be used if disclosure is permitted under paragraph 6.1 are:

Department for Education/EFA (In these circumstances, the DfE/EFA will assess whether all school processes have been applied and that the Assessor has done everything possible to resolve the issue. If this is not the case, the DfE/EFA will refer the matter back to the Assessor);

- Member of Parliament;
- National Audit Office;
- Health and Safety Executive;
- Police.

Whistleblowing to the media is not appropriate or permitted in any circumstances.

CONFIDENTIAL EMPLOYEE ENQUIRIES

7.1 Employees may, on a confidential basis seek prior guidance from the Headteacher if they wish to establish whether any course of conduct on their part or on the part of another employee may amount to wrongdoing under these procedures. Such enquiry shall be kept confidential. The Headteacher will attempt to provide guidance on the basis of the information provided, but such guidance shall not prejudice the rights of the Academy or any person under these procedures.

MONITORING, EVALUATION AND REVIEW

The Governing Body will assess the implementation and effectiveness of this policy. The policy will be promoted and implemented throughout the Academy.