

# THE DIOCESE OF SHEFFIELD ACADEMIES TRUST

## WHISTLEBLOWING POLICY 2022-23



THE  
DIOCESE OF  
SHEFFIELD  
ACADEMIES  
TRUST

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## WHISTLE BLOWING POLICY

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## **1. 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 Trust Board/Local Board or by fellow employees. 'Whistleblowing' is when a worker provides certain types of information which has come to their attention, usually to the employer or a regulator, to raise a concern about danger or illegality that affects others. The disclosure may be about the alleged wrongful conduct of the employer, a colleague, client, or any third party.

Wrongdoing may include for example, fraud, corruption, malpractice, breach of health and safety law, any other illegal or unethical act or breaches of the DSAT 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. For a disclosure to be protected, it must meet the test for being in the public interest and the worker must follow the procedures set out in the legislation.

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, the People Director, the CEO or the nominated Trustee.

## **2. PROTECTING THE WHISTLEBLOWER**

Under the Public Interest Disclosure Act 1998 a Whistleblower is protected from detriment and unfair dismissal. The Trust will support and not discriminate against concerned employees/workers who apply the Whistleblowing procedure, where the 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 Trust 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.

## **3. 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 raising a concern under 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 and the Trust grievance policy.

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

The Trusts complaints procedure can be used to consider other complaints that are not classed as Whistleblowing.

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 Designated Safeguarding Lead.

To be protected, the information supplied by the whistleblower must be properly based in fact and have sufficient detail in it to cover one of the types of wrongdoing referred to in the legislation. An opinion or an observation is unlikely to amount to a protected disclosure.

#### **4. 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 in the first instance. 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 local Board and the Trust People Director.

If the concern relates to any of the Trust Central Team, the Representor should raise the matter with the nominated Trustee and the Chair of the Finance, Audit and Risk Committee.

If the concerns relates to any Trustee, this should be raised with the nominated Trustee. If the concern relates to the nominated Trustee, this should be referred to the Chair of the Trust Board.

If the concern relates to the Chair of the Trust Board, this should be referred to the Members of the Trust Board.

The person with whom the matter is raised is referred to as the "Assessor". The Assessor must seek advice from the Trust People Director.

**The Assessor will:**

- Interview the Representor as soon as possible within seven working days, in confidence. Immediate intervention is 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.

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 Trust/Academy staff to take notes.

If the Assessor identifies any conflict of interest in being the person required to conduct the following tasks, then they will inform the Representor and allocate the task to a suitable alternative Assessor.

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, with other suitable professionals, such as the Trust People Director, LADO, health and safety, 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 ESFA 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/Head of School. However, should it be alleged that the Headteacher is involved in the alleged wrongdoing; the recommendation will be made to the CEO.

The Headteacher or Chair of the Local Board, 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 Trust Board.

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 (see section 6 below) 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.

## **5. 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.

Please refer to the Trusts Complaints Procedure/Disciplinary Policy.

## **6. 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 are:

- Department for Education/ESFA (In these circumstances, the DfE/ESFA 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/ESFA 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.**

## **7. CONFIDENTIAL EMPLOYEE ENQUIRIES**

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.

## **8. LOW LEVEL CONCERNS**

The school will ensure that low level concerns are dealt with effectively and also protect those working in schools from potential false allegations or misunderstandings. We encourage anyone with a concern, no matter how small, to report to the Headteacher and all low-level concerns will be recorded and dealt with appropriately.

A low-level concern is a behaviour towards a child by a member of staff that does not meet the harms threshold, is inconsistent with the staff code of conduct, and may be as simple as causing a sense of unease or a 'nagging doubt'. For example, this may include:

- Being over-friendly with children
- Having favourites
- Taking photographs of children on a personal device
- Engaging in one-to-one activities where they can't easily be seen
- Using inappropriate language i.e. sexualised, intimidating or offensive

Low-level concerns can include inappropriate conduct inside and outside of work.

All staff should share any low-level concerns they have to the Headteacher, using the reporting procedures set out in our child protection and safeguarding policy. We also encourage staff to self-refer if they find themselves in a situation that could be misinterpreted. If staff are not sure whether behaviour would be deemed a low-level concern, we encourage staff to report it.

All reports will be handled in a responsive, sensitive and proportionate way.

Unprofessional behaviour will be addressed, and the staff member supported to correct it, at an early stage.

This creates and embeds a culture of openness, trust and transparency in which our values and expected behaviour are constantly lived, monitored and reinforced by all staff, while minimising the risk of abuse.

Reporting and responding to low-level concerns is covered in more detail in our child protection and safeguarding policy and code of conduct. This is available in the staff room and from the school office, as well as in the policies section or the school website.

## **9. MONITORING, EVALUATION AND REVIEW**

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

The nominated Trustee to report Whistleblowing concerns is Zoe Linton.

The nominated Chair of the Finance, Audit and Risk Committee is Jim Dugmore.

The Chair of the Trust Board is Huw Thomas.

Members of the Trust Board are Bishop Sophie Jelley, Alan Richards, Casey Strine, Derek Grovner

The nominated Staff Member to report Whistleblowing concerns is Alison Bradley, People Director.