



Kingsdale Foundation School

Whistleblowing Policy and Procedure

Introduction

If you have concerns about something that is happening at work which you think could be unlawful conduct, financial malpractice, a concern for the welfare or safeguarding of a child or be dangerous to the public or the environment, it is important that you know what you can do to bring it to the attention of the appropriate people or body.

The Academy is committed to achieving the highest possible standards of service and ethical standards in public life and it is important to us that you are not worried about raising such issues and do not feel that reporting them is either not your business or would be disloyal to colleagues, managers or to the organisation.

It is also important that if you decide to say something that you know the appropriate way to do it.

The requirement to have clear whistleblowing procedures in place is set out in the [Academies Trust Handbook](#).

This policy has been written in line with the above document, as well as government guidance on whistleblowing. We also take into account the Public Interest Disclosure Act 1998, the Employment Rights Act 1996, DfE 'Keeping Children Safe in Education, 2021, Gov.uk (2012) 'Whistleblowing for Employees' and Sir Robert Francis (2015) 'Freedom to Speak Up Report'.

This policy does not form part of any employee's contract of employment and may be amended at any time. The policy applies to all employees or other workers who provide services to the Academy in any capacity including self-employed consultants or contractors who provide services on a personal basis and agency workers.

This policy works in conjunction with the following:

- KFS Disciplinary Policy
- KFS Grievance Procedure
- KFS Concerns & Complaints Policy
- KFS Relationships at Work Policy
- KFS Data Protection Policy
- KFS Records Management Guidance

Aims of the Policy

This policy aims to:

- Encourage you to feel confident in raising concerns and that these will be taken seriously;
- Provide information on and avenues for you to raise concerns and receive appropriate feedback;
- Set out clear procedures for how the Academy will respond to such concerns;
- Ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied;
- Reassure you that you will be protected from any reprisals or victimisation by the Academy, if you have reasonable belief that the matter disclosed tends to show wrongdoing and you have made the disclosure in an appropriate manner and in good faith.

Definition of Whistleblowing and Policy Principles

Whistleblowing covers concerns made that report wrongdoing that is 'in the public interest' and which counts as a 'qualifying disclosure'. Examples of whistleblowing include (but aren't limited to) a situation or situations where

- A criminal offence has been committed, is likely to be committed or is being committed, for example fraud or corruption;
- A person has failed, is failing, or is likely to fail to comply with any legal obligation to which they are subject;
- There are breaches of financial management procedures;
- There are breaches of Academy policies that have not been detected or where there has been an attempt to cover-up such a breach by a member of staff;
- The Academy is breaking the law, for example, does not have the required insurance/s;
- A miscarriage of justice has occurred, is occurring or is likely to occur;
- The Health & Safety of any individual has been, or is likely to be endangered;
- The environment has been, or is likely to be damaged;
- Information tending to show any matter falling within any of the preceding points has been, is being, or is likely to be deliberately concealed – as in you believe someone is covering up wrongdoing or any other wrongdoing in the public interest.

A whistleblower is a person who raises a genuine concern relating to the above. A whistleblower is not and must not be perceived as a mischief-maker or troublemaker.

Not all concerns about the Academy count as whistleblowing. For example, personal staff grievances such as bullying or harassment do not usually count as whistleblowing. If something affects you as an individual staff member, or relates to an individual employment contract, this is likely a grievance.

When you have a concern, you should consider whether it would be better to follow our staff grievance or complaints procedures.

In the public interest means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:

- The number of people in the group whose interests the disclosure served;
- The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed;
- The nature of the wrongdoing disclosed;
- The identity of the alleged wrongdoer;
- Blacklisting refers to an individual who is being refused work because they are viewed as a whistleblower.

Grievances involve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance, which is covered by a separate policy, and blowing the whistle.

The Academy will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure that whistleblowing procedures are fair, clear and consistent.

The Academy will implement a culture of change by ensuring the following principles are reflected in our ethos and values – there will be a culture:

- Of safety in the school;
- Where people feel confident with raising concerns;
- Free from bullying;
- Of visible leadership;
- Of valuing staff;
- Of reflective practice;

By providing a clear procedure for mediating and resolving cases the Academy will ensure that all cases are efficiently handled. This procedure includes:

- How to raise and report concerns;
- How investigations may be conducted;
- How the Academy will mediate and resolve disputes;
- The Academy will implement measures to support good practice by ensuring adherence to the following principles;
- Offering relevant training to staff;
- Providing the necessary support to staff;

- Providing support to staff who are seeking alternative employment;
- Being transparent;
- Being accountable;
- Conducting an external review of any concerns raised, where necessary;
- Undertaking regulatory action as required;

We will ensure there are particular support measures in place for vulnerable groups by adhering to the following principles:

- Ensuring non-permanent staff are taught, and receive training on, the same principles as permanent staff;
- Ensuring trainees are subject to all the safeguarding and whistleblowing principles;
- Ensuring staff from ethnic minorities and other groups are supported, as they may feel particularly vulnerable when raising concerns;
- Ensuring staff are empowered and protected, enabling them to raise concerns freely;

When to Raise a Concern

You should consider the examples in this policy when deciding whether your concern is of a whistleblowing nature. Consider whether the incident(s) was illegal, breached statutory or Academy procedures, put people in danger or was an attempt to cover any such activity up.

Our Assurances to You

The Public Interest Disclosure Act 1998 (PIDA) protects employees who “blow the whistle” where the employee reasonably believes that the disclosure falls within the remit of the prescribed person or body and that the information and any allegations are substantially true. Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.

The Academy recognises that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the Academy itself; however, the Academy will not tolerate any such harassment or victimisation and will take appropriate action to protect staff who raise a concern in good faith.

Staff are protected in law by the PIDA, which gives employees protection from detriment, blacklisting and dismissal where they have made a protected disclosure, providing the legal requirements of the Act are satisfied, e.g. the disclosure was in the public interest.

Any member of staff who victimises, harasses, actively attempts to identify or expose an employee as a result of them having raised a concern in accordance with this policy will be dealt with under the Academy's Disciplinary Procedure. This will also apply where the subject of a whistleblowing complaint attempts surreptitiously or otherwise to convey to the whistleblower that they are aware or may be aware of his/her identity or to share such information with a third party.

The PIDA and the Employment Rights Act 1996 do not protect non-employees as far as whistleblowing is concerned. Irrespective of this, the Academy will not allow harassment, dismissal or exclusion for any non- employee who raises a genuine concern.

Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the Academy's Grievance or Concerns & Complaints Procedure as appropriate.

Trustees and Governors who are not employees while they are responsible for ensuring there is a whistleblowing procedure in place, are not protected under the PIDA.

We recognise that you may nonetheless want to raise a concern in confidence. If you ask us to protect your identity, we will not disclose it without informing you. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter or to protect your position or to give you feedback. Accordingly, while we will consider anonymous reports, it will not be possible to apply all, most or any aspects of this policy for concerns raised anonymously.

How to Raise a Concern

In raising concerns covered by this policy, the Headteacher is the first point of contact for whistleblowing queries. If the allegation is related to the Headteacher, the concern should be raised with the Chair of the Governing Body.

Any member of the Academy's community or the general public is able to "blow the whistle"; however, the PIDA only protects employees. This policy includes further details on how whistleblowing affects non- employees.

When raising concerns, individuals should where possible express them in writing to the Headteacher. Where concerns are raised orally it shall be at the discretion of the Headteacher as to whether or not the Whistleblowing Policy should apply. If an individual is raising a concern about the Headteacher, they should where possible express their concerns in writing to the Chair of the Governing Body. Where concerns are raised orally it shall be at the discretion of the Chair of Governors as to whether or not the Whistleblowing Policy should apply. Where this is the case, the Chair will take on the Headteacher's duties outlined below.

When individuals raise their concern, they will include the following information as far as possible:

- The background and history of the concern;
- Any relevant names, dates and places;
- The reasons for the concern;
- Individuals who would like to seek professional and confidential advice should contact Protect, a registered charity that advises on whistleblowing queries. The Protect website can be accessed here (www.protect-advice.org.uk), or they can be contacted on 020 3117 2520.

Once an individual has raised a concern, the Academy will be responsible for investigating it.

In certain instances, it may be appropriate for the individual to raise the concern with an outside agency, e.g. the Police, depending on the severity of the concern. Equally, it may be appropriate for the individual to request that their trade union raises the matter.

If a member of staff feels they should report a concern to the ESFA, they should use the online contact form.

If a member of staff feels like they are unable to raise a safeguarding-related concern with the Academy, they are able to contact the NSPCC Whistleblowing Helpline on 0800 028 0285 or the Southwark LADO on 020 7525 0689.

The Academy, or the appropriate external agency, will acknowledge receipt of a disclosure but, unless additional information is required, will not contact or engage in dialogue with the whistleblower, as this may undermine the legitimacy of the investigation outcome.

The Headteacher (or other relevant person) will normally contact the individual within 10 calendar or 5 working days of receiving the concern to confirm that the concern has been received.

The initial stage will require the headteacher to determine proposals for dealing with the concern including establishing:

- What information if any should be shared with the whistleblower;
- If there are grounds for a concern and that it is genuine;
- If the concern was raised in accordance with this policy.

During the initial stage, the Headteacher will request the individual puts their concern in writing, if they have not already done so. The Headteacher will write a summary of the concern if the individual is unable or unwilling to put it in writing.

The Headteacher will explain the following to anybody raising a concern:

- How they will communicate with the complainant throughout the process. It should be noted, the need for confidentiality may prevent the Academy giving the complainant specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern;
- That the complainant's identity will be kept confidential from the alleged wrongdoer;
- That the Governing Body will do everything in its power to protect the complainant from discrimination;
- That if the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the complainant.

If clear evidence is uncovered that the complainant's concern is malicious or unfounded, disciplinary or punitive action will be instigated against them.

If an investigation is carried out, the whistleblower may not necessarily be informed of the final outcome.

A record will be kept of the seriousness of the issues raised and the credibility of the concern. All records will be kept confidential and will be stored in line with the Trust's Records Management Guidance.

It may be possible for the concern to be resolved by simply agreeing the necessary action or explaining procedures to the alleged wrongdoer; however, depending on the severity and nature of the concern, it may:

- Be investigated by management, an internal audit or through the disciplinary process;
- Be referred to the police or an external auditor;
- Form the subject of an independent inquiry.

If the investigating officer needs to talk to the whistleblower, they are permitted to be accompanied by a trade union representative, a professional association representative, a friend or a fellow member of staff not involved in the area of work to which the concern relates. This person will provide support only and will not be allowed to become involved in the proceedings.

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

The whistleblower may be informed of the outcome of the investigation, and any action that is proposed will be subject to third party rights at the discretion of the Headteacher. Where action is not taken, the individual may be given an explanation as appropriate.

Actions Requested of Whistleblowers

The purpose of this policy is to enable individuals to raise concerns in confidence, without any fear of reprisal; therefore, it is imperative that whistleblowers:

- Do not talk about the concern outside the Academy unless it is to report the concern through the proper external channels, e.g. the LADO or the Police;
- Declare any personal interest in the matter, as the policy is designed to be used in the interest of the public and not for individual matters.

An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing. Further information can be sought from the Citizen's Advice Bureau, the whistleblowing charity Protect, or from an individual's trade union.

Any claims of unfair dismissal needs be made within three months of the investigation ending.

The Whistleblowing Policy is designed to sit alongside the Academy's Safeguarding Policy, Grievance Procedure, Concerns & Complaints Policy and Relationships at Work Policy. As a guideline, concerns, which should be raised through these routes, are as follows:

- Safeguarding issues should be raised through Safeguarding procedures;
- Employment related issues should be raised through the Academy's Grievance Procedure;
- General issues for employees should be raised through the line management structure and for non-employees through the Concerns & Complaints Policy;
- Relationship issues concerning members of staff should be dealt with under the Relationships at Work Policy.

APPENDIX A WHISTLEBLOWING POLICY

GUIDANCE PROCEDURE FOR MANAGERS ASSIGNED TO RESPOND TO A MATTER OF CONCERN RAISED BY AN EMPLOYEE

1. School Managers should ensure that employees are aware of the Whistleblowing Policy and know where it can be located.

2.0 If managers receive a disclosure in respect of any of the matters set out under the heading 'What to Raise a Concern About' in the Whistleblowing Policy you must take the following action:

2.1 take the matter seriously and do not dismiss or belittle the information.

2.2 respect as far as possible the confidentiality of the employee, and adhere to the policy under the heading "To protect your identity" where the employee has specifically asked for confidentiality.

2.3 ensure that the employee understands the Whistleblowing procedure.

2.4 *Inform and take advice from the Headteacher or Chair of Governors as appropriate.

2.5 acknowledge the concern in writing, if appropriate and agreed, within 10 calendar or 5 working days.

2.6 discuss ways that the employee could be supported.

2.7 arrange for the concern to be investigated objectively, dealing with all parties with sensitivity and tact.

2.8 seek advice from the School's Personnel Provider as appropriate.

2.9 seek advice and involve other Education managers if appropriate.

2.10 set out clearly how the concern is to be taken forward.

2.11 ensure that confidential notes are made and kept of the process followed, notes of discussions etc.,

2.12 keep informed the person raising the concern about the progress and outcome of the investigation if appropriate and with the agreement of the Headteacher.

2.13 provide the Headteacher with details of the concern and inform him about the progress and outcome of the investigations.

2.14 If at the conclusion of the investigations there is a view that the concern was not raised in good faith, further advice must be sought from the Headteacher.