

Whistleblowing Policy

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1 Introduction

This policy applies to all trustees, employees (which throughout this policy and procedure includes workers as defined and extended by the Employment Rights Act 1996) and governors.

It is important to the Trust that any fraud, misconduct or wrongdoing by trustees, employees or governors of the Trust/Academy is reported and properly dealt with. The Trust will, therefore, respond to all individuals who raise any genuine concerns that they may have about the conduct of others in the Trust/academy, **which are in the public interest**. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

- 1.1 The Inclusive Multi Academy Trust expects the highest standards of conduct from all trustees, employees and governors and will treat seriously any concern raised about illegal or improper conduct.
- 1.2 Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the Headteacher (or the CEO/Chair of Trust if the concerns relate to the Headteacher/CEO) any serious impropriety or breach of procedure.
- 1.3 Employees who do not follow the steps identified in this procedure or other agreed internal procedures and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.
- 1.4 This policy does not form part of any employee's contract of employment and it may be amended at any time. The Trust may also vary any time limits as appropriate in any case.

2 Background

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures' A qualifying disclosure is one made in the public interest by the employee 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 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 employee to have proof that such an act is being, has been, or is likely to be committed, - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the Trust's responsibility to ensure that an investigation takes place

- 2.1 Where the concerns are about **safeguarding children or young people**, the school's Designated Senior Person for Child Protection should be notified (see 7 below).
- 2.2 It is a procedure in which the Headteacher/CEO or Chair of the Trust will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the Trust's disciplinary procedure.
- 2.3 Concern about a colleague's professional capability should **not** be dealt with using this procedure (but see section 7 below).

3 When should it be used?

This policy and procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that his/her own contract has been, or is likely to be, broken he/she should use the Trust's grievance procedures.

Where a disclosure is merely an expression of opinion or a generalised allegation that fails to show that one of the six categories of wrongdoing has been or is likely to be occur, it **cannot** amount to a protected or qualifying disclosure for the purposes of the whistleblowing legislation.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the worker is made in the public interest.

3.1 This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved about his/her own situation. Nor should this policy apply where the employee simply disagrees with the way the Trust or its schools are run.

3.2 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip or rumour.

3.3 An employee who makes such a protected disclosure has the right not to be subjected to detrimental treatment which includes, dismissal, disciplinary action, threats or other unfavourable treatment, because he/she has made a disclosure, provided it has not been made maliciously. Any employee who uses this policy and procedure will not be penalised for doing so. The employer will not tolerate harassment and/or victimisation of any employee raising concerns

3.4 An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed should contact their professional association/trade union or Protect Work, an independent charity who offer a confidential helpline. Their contact details are at the end of this policy.

3.5 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to the ESFA for possible investigation. Normally an employee must first report any suspicion of such an irregularity to the Headteacher, CEO or Chair of the Trust (but see 5), who will in turn report it to the ESFA.

4. Principles

4.1 Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially. Whilst the Trust will aim to keep the employee informed of the progress of the investigation and likely timescales sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed

4.2 No employee will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because he/she has raised a legitimate concern.

4.3 Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.

4.4 If misconduct is discovered as a result of any investigation under this policy the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.

4.5 Maliciously making a false allegation is a disciplinary offence.

- 4.6** An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent.

5. Procedure

- 5.1** In the first instance, unless the employee reasonably believes their Headteacher to be involved in the wrongdoing, in which case concerns should be raised with the chair of the Local Governing Committee, any concerns should be raised with the employee's Headteacher. Any concerns regarding a member of staff within the central Trust team, including the CEO, should be referred to the Chair of the Trust Board.
- 5.2** The Headteacher/Chair of the Local Governing Committee/Chair of the Trust Board will arrange an investigation into the matter (either by investigating the matter himself/herself or immediately passing the issue to someone in a senior position). The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out above.

Employees who want to use the procedure but feel uneasy about it may wish to consult their Professional Association/Trade Union initially and bring a colleague or Professional Association/Trade Union Representative along to any discussions, so long as the third party is not involved in the issue.

Employees are not encouraged to make disclosures anonymously. Proper investigation may be more difficult or impossible if further information cannot be obtained from the employee. It is also more difficult to establish whether any allegations are credible.

Employees who are concerned about possible reprisals if their identity is revealed should come forward to one of the contacts listed in section 8 of this policy and appropriate measures can be taken to preserve confidentiality although no guarantee can be given that this will always be possible

- 5.3** The Headteacher/Chair of the Local Governing Committee (or the person who carried out the investigation) will then report to the CEO/Chair of the Trust Board who will take the necessary action, including reporting the matter to any appropriate department or regulatory agency. If disciplinary action is required this will be taken forward by the Headteacher/CEO/Chair of the Trust Board in consultation with the School's HR Advisory Team. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be. If no action is to be taken the reason for this will be explained.

The aim of this policy and procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the Trust. In most cases employees should not find it necessary to alert anyone externally and employees are strongly advised to seek advice before reporting a concern in this way. Employees who feel unable to follow this internal route, for whatever reason, have the option of contacting a prescribed person and the Public Interest Disclosure (Prescribed Persons) Order 2014 lists the prescribed persons and the matters within their remit. <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies#local-authorities>

For education issues this is likely to include Her Majesty's Chief Inspector of Children's services and skills, the Secretary of State for Education and the Office of Qualifications and Examinations Regulator. A full list can be obtained from the charity, Public Concern or the Department for Business, Energy and Industrial Strategy <https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>

6 What should be done if an issue is raised with a member of staff?

6.1 If a member of staff, other than the Headteacher, is approached by a colleague on a matter of concern as defined in this document, he/she is advised to take the matter to the Headteacher (but see 5).

7 Safeguarding Children and Young People

7.1 All employees have a duty to report concerns about the safety and welfare of pupils/students.

7.2 Concerns about any of the following should be reported to the Designated Senior Person for Child Protection (DSP):

- physical abuse of a pupil/student
- sexual abuse of a pupil/student
- emotional abuse of a pupil/student
- neglect of a pupil/student
- an intimate or improper relationship between an adult and a pupil/student

The Trust's DSP is James Roach. The Academies within the Trust will appoint additional DSPs.

7.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a Governor, a Trustee or another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

8. General

The legislation protecting individuals who makes a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.

Section 43J of the Employment Rights Act 1996 provides that a settlement agreement made between an employee and employer cannot prevent future protected disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

9. Contacts

Herts HR (HCC)

Assistant Director

Tel: 01992 556653

Legal, Member & Statutory Services

Chief Legal Officer

Tel: 01992 555527

Or via your professional association or trade union representative.

Or the independent whistleblowing charity Protect;

<https://www.pcaw.org.uk/>

Helpline (020) 31172520