

# Whistleblowing Policy and Procedure

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## 1. INTRODUCTION

- 1.1 This whistleblowing policy is designed to allow individuals to report genuine and legitimate concerns about something that may be seriously wrong within the Bolton Impact Trust or any of its academies. This policy makes it clear that any employee reporting a genuine and legitimate concern can do so without fear of reprisals, victimisation or suffering a detriment.
- 1.2 The Bolton Impact Trust expects the highest standards of conduct from all employees and will treat any concern raised about illegal or improper conduct seriously, in confidence and will carry out a proper investigation.
- 1.3 This policy accords with current education and employment law.

## 2. DEFINITIONS

- 2.1 It is **not** a legal requirement for an employer to have a whistleblowing policy, however, it is deemed good practice and creates an open, transparent and safe working environment where employees feel able to raise a concern.

The law does not define the term “**whistleblowing**“. Whistleblowing can be described as the action of an individual disclosing concerns relating to a perceived wrongdoing by employers or third parties in the context of the workplace. "Whistleblowing" is the term which has been adopted to describe arrangements which allow employees to express concerns (otherwise known as “blowing the whistle”) about malpractice, impropriety or wrongdoing which may be occurring in the workplace.

- 2.2 The correct legal definition for “whistleblowing” is when an employee makes a “**qualifying disclosure**“. A qualifying disclosure is one made in the **public interest** by an employee who has a **reasonable belief** that something is, or may be: -

- A criminal offence;
- Failure to comply with a legal duty;
- A miscarriage of justice;
- A danger to the health and safety of any individual;
- Damaging the environment;
- A deliberate attempt to conceal any of the above.

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.

- 2.3 References to “Relevant Person” mean the Academy Lead or a member of the Academy’s Senior Management Team or Central Leadership Team, or the Chair of Governors or Chair of Trustees where a disclosure relates to the Academy Lead or member of the Central Leadership Team.
- 2.4 References to “Academy” is used to describe any Academy within the Bolton Impact Trust.
- 2.5 References to the Academy Lead” refer to the Academy Lead of each academy.

- 2.6 References in this policy to the Chair of Governors or Chair or Trustees will include a reference to the vice chair of governors/trustees in cases where the decision-making responsibilities of the chair of governors/trustees have been delegated to the vice chair of governors/trustees.
- 2.7 References to “employees” means the Academy Lead, members of the Senior Leadership Team, members of the Central Leadership Team, employees, consultants, part-time and fixed term workers, temporary and agency staff and any other individuals who undertake to do or perform personally any work or service for the Academy including contractors, sub-contractors, volunteers and ex-employees.

### **3. SCOPE**

- 3.1 This policy sets out the way in which employees may raise any genuine and legitimate concerns that they have about incidents of misconduct or malpractice and how these concerns will be dealt with. Whilst protection under the legislation covers most types of workers, it is not extended to volunteers, the self-employed or the general public. However, the principles outlined in this policy, as far as they can be, will be applied to whistleblowing allegations received from sources other than employees.
- 3.2 This policy has specific sections to advise employees of the process to be followed when raising a concern and how the Academy will respond.
- 3.3 Concerns about a colleague’s professional capability should **not** be dealt with using this policy.
- 3.4 This policy is not a substitute for normal line management processes but an addition to them. The aim of this policy is to allow for concerns to be expressed outside the normal line management structure, if necessary.
- 3.5 This policy is not to be used where other more appropriate internal reporting procedures are available. Concerns about an employee’s own situation including a breach of contract, should be dealt with using the Academy’s Grievance Procedure.
- 3.7 If any concerns are raised initially through a different route that raise serious concerns over wrongdoing and are in the public interest, the Academy will investigate under this whistleblowing policy.
- 3.8 Employees who do not follow the steps identified in this procedure and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation in line with the Trust’s disciplinary policy and procedure.
- 3.9 The timescales in this policy may be amended by mutual agreement.
- 3.10 Specific staff responsibilities under this policy are set out in Appendix 1.
- 3.11 This policy does not form part of an employee’s contract of employment and is not intended to have contractual effect.

### **4. HOW TO RAISE A CONCERN**

- 4.1 The Trust and its academies hope that in many cases, employees will be able to raise any concerns with their line manager. Together, they may be able to agree a way of resolving a concern quickly and effectively.

- 4.2 However, where the matter is more serious, or an employee feels that their Line Manager has not addressed the concern properly or their line manager is not the most appropriate person then employees should raise the concern directly with the Academy Lead or a member of the Senior Leadership Team. If the member of staff feels the matter still has not been addressed they should raise their concern with the Vice Principal or Executive Principal.
- 4.3 If the concern relates to the Academy Lead the matter should be raised with the Executive Principal.
- 4.4 In the event both the Academy Lead and the Executive Principal are the subject of the concern, the complaint must be made to the Chair of Trustees.
- 4.5 Employees who wish to raise concerns over practices in other schools or academies should report this directly to the Local Authority or Academy Trust.
- 4.6 Any concerns should be expressed in writing, setting out the following information:
- Who the allegations are against;
  - The background;
  - Full details on the nature of the alleged wrongdoing and why the member of staff is particularly concerned about the allegation;
  - Details of any evidence in support of the allegation;
  - Name and contact details (unless they wish to remain anonymous); and
  - Reasons why the concern should be taken forward.
- 4.7 If an employee does not feel able to put the concern in writing initially, he or she should be allowed to telephone or meet the Academy Lead or a member of the Senior Leadership Team who will make a note of the concern and will explain the next steps in the process.

## **5. HOW THE ACADEMY WILL RESPOND**

- 5.1 The member of staff expressing concern will receive a written acknowledgement within 10 working days of the concern being received. This acknowledgement will indicate: -
- how the Academy proposes to deal with the matter;
  - the policy under which the matter will be investigated (i.e. whether it is the whistleblowing policy or a different Academy policy);
  - contact details for the person handling the investigation (the “Investigating Officer”);
  - arrangements for confidentiality;
  - an estimate of how long it will take to provide a response on the outcome;
  - any initial enquiries which may have been made;
  - whether further investigations will take place, and if not, why not.
- 5.2 Having acknowledged receipt of the concern raised, the Investigating Officer will consult with HR and People, One Education if assistance is required with the investigation.
- 5.3 Some concerns may be resolved by agreed action, without the need for investigation. In these cases, confirmation should be sought from the employee that they are satisfied that

the matter has been resolved. This does not preclude matters being raised in the future if further concerns arise.

## **6. THE INVESTIGATION PROCESS**

- 6.1 Allegations will be handled confidentially and discreetly by all who are directly involved in the investigation process.
- 6.2 Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take including who should undertake the investigation. In some cases, an investigation may be completed without the subject of the complaint being aware of the investigation.
- 6.3 If it is determined that the concerns or allegations fall within the scope of specific procedures (for example disciplinary procedures) it should normally be referred for consideration under those procedures. Before any further investigatory action is taken the Academy Lead or Central Leadership Team should consult with HR and People, One Education.
- 6.4 If urgent action is required in response to a concern this may be taken before a full investigation is conducted
- 6.5 It may be necessary for the Investigating Officer to arrange a meeting with the employee in order to obtain further information.
- 6.6 Witnesses may be interviewed as part of the investigation and asked to provide a written statement. Where witnesses have been identified by the employee, and particularly where witnesses are interviewed, it is important that the witnesses do not suffer any personal detriment as a result, providing that they have acted in good faith.
- 6.7 Investigation procedures into allegations of malpractice must be independent, skilled and objective. The Investigating Officer appointed must therefore not have had any previous involvement with the case and will be sensitive to the wishes of the employee wherever possible.
- 6.8 Where a complaint involves the Academy Lead, then an Investigating Officer must be a member of the Central Leadership Team. In any event, the Investigating Officer must be at an appropriate level of seniority and must have sufficient experience and/or training to allow a thorough investigation to take place. Depending upon the circumstances, external agencies may also be involved in the investigation.
- 6.9 During the investigation every effort will be made to protect the legitimate rights of all parties involved. In particular the following principles shall be adhered to:
  - strict confidentiality must be maintained at all times. Any breach of confidentiality may lead to consideration of disciplinary action;
  - throughout the investigation process, the employee, the alleged perpetrator and any witnesses interviewed are entitled to be accompanied at the meeting by either a companion or a trade union representative.
- 6.10 The investigation should normally be completed within 30 working days of the complaint being registered. Where cases prove to be more complicated and it may not be possible to complete within the time scale, it will need to be extended to accommodate the particular circumstances. Where the timescale will probably exceed 30 working days, the Investigating Officer will advise the employee.

## **7. OUTCOME OF THE INVESTIGATION**

- 7.1 The Academy will, subject to legal constraints, seek to advise the employee on the outcome of the investigation.
- 7.2 The investigation will conclude with a report by the Investigating Officer to the Academy Lead, Central Leadership Team, Chair of Governors, Chair of Trustees or other relevant person. This will summarise the Investigating Officer's findings on the allegations and recommend further action which could include but is not limited to:
- a finding that the allegation was unfounded and therefore no action needs to be taken;
  - a recommendation to take no further action on the complaint. This may be appropriate if the Investigating Officer decides that there is a lack of evidence relating to the complaint or that the complaint is untrue;
  - a recommendation to take-action in order to deal with the matter on the basis that it is not sufficiently serious to warrant formal disciplinary action. Such action could include:
    - written management advice; and/or
    - an instruction to a member of staff to undertake appropriate guidance and/or training; and/or
    - appropriate changes in working arrangements which must not be to the disadvantage of the complainant;
    - a recommendation to initiate formal disciplinary action because there is objective evidence to support the allegation that malpractice has taken place.
- 7.3 Where permitted, the Academy Lead or other Relevant Person will write to the employee detailing the findings of the investigation and the action to be taken. This letter will contain an undertaking that the employee and any witnesses will not be victimised or suffer any detriment as a result of having made the complaint.
- 7.4 Where an Academy Lead or other Relevant Person determines to take no action irrespective of the recommendation made he/she shall give written reasons for this determination to the employee. Failure to give such information will be regarded as a breach of this procedure.
- 7.5 Where the Investigating Officer considers that a complaint is untrue and malicious he/she will recommend a second investigation of the circumstances. This may lead to consideration of disciplinary action against the complainant. Suspension may be considered necessary but should be seen as a neutral act which does not of itself imply that any pre-emptive judgement has been reached.

## **8. RECORDING WHISTLEBLOWING COMPLAINTS**

- 8.1 The Academy Lead (or Executive Principal in the case of the Academy Lead) should maintain a confidential central record for a period of five years (seven years for allegations of financial irregularities) of all Whistleblowing allegations which have been raised and the responses provided. If supported by One Education HR and People then a copy should be retained by them in line with their GDPR retention policy.

- 8.2 In respect of anonymous allegations, should the Academy Lead or Executive Principal consider that further action would be inappropriate, details of the allegation and reason for the decision must still be recorded. These central records will be used to analyse the impact and effectiveness of the arrangements put in place as part of the reporting process on the effectiveness and outcomes of the Policy and as a record of actions taken in the case of any matters raised under the Public Interest Disclosure Act.

## **9. ANONYMOUS CONCERNS**

- 9.1 This policy encourages individuals to put their name to an allegation wherever possible as the Trust believes that open and confidential whistleblowing is the best means of addressing concerns, and protecting individuals. The effectiveness of any investigation may be limited where an individual chooses not to be identified.
- 9.2 All concerns expressed anonymously will be considered and may be investigated but the level of investigation will depend upon the nature of the allegations; the seriousness of the issues raised; the credibility of the concern; and the likelihood of confirming the allegations from attributable sources.
- 9.3 Concerns expressed anonymously are much less persuasive than when an employee is prepared to come forward formally. It will not of course be possible to report any findings back to the complainant in these circumstances.
- 9.4 Anonymous concerns will be recorded in accordance with paragraph 8.2

## **10. FALSE AND MALICIOUS ALLEGATIONS**

- 10.1 While encouraging employees to bring forward genuine matters of concern, the Trust must guard against claims which are untrue and are made to deliberately damage the reputation of staff at the Academy or across the trust.
- 10.2 If a member of staff makes an allegation in good faith, but it is not confirmed by the investigation, no action will be considered or taken. However, if an employee makes false, malicious or vexatious allegations this will be treated as a serious disciplinary matter and action taken in accordance with the Trust's disciplinary policy and procedure.

## **11. HARASSMENT AND VICTIMISATION**

- 11.1 The Academy Lead or Relevant Person will monitor how an employee is subsequently treated after raising a matter of concern and will ensure that if they find evidence of harassment or victimisation, this will be dealt with in accordance with the Trust's disciplinary policy and procedure.
- 11.2 The Trust and its academies will not tolerate harassment or victimisation against an employee who has raised a genuine concern under this policy. Any employee who victimises a whistle-blower will be subject to disciplinary action which could lead to dismissal.
- 11.3 Any employee who believes they have been harassed or victimised as a result of raising a genuine concern should contact the Academy Lead or member of the Central Leadership Team.

## **12. CONCERNS ABOUT SAFEGUARDING**

- 12.1 All employees have a duty to report concerns about the safety and welfare of pupils.

Concerns about any of the following:

- Physical abuse of a pupil
- Sexual abuse of a pupil
- Emotional abuse of a pupil
- Neglect of a pupil
- An intimate or improper relationship between an adult and a pupil

**Must** be reported immediately to the Academy's Designated Safeguarding Lead.

### **13. HOW THE MATTER CAN BE TAKEN FURTHER**

13.1 It is the hope and intention of The Bolton Impact Trust that any employee with a concern about the Academy's operation or its conduct, feels able to first raise those concerns internally with their line manager. However, in line with legislation, if an employee does not feel comfortable making a disclosure internally within Academy, they have the right to take their concerns outside the Academy as set out below.

13.2 If an employee would like independent advice about raising a concern, the employee can speak to:

- A Union Representative;
- An independent legal advisor; and/or
- The independent charity "Public Concern at Work" [www.pcaw.org.uk](http://www.pcaw.org.uk)

13.3 If an employee is not satisfied, and feels it appropriate to take the issue further, the employee may make a protected disclosure to a third party (in accordance with the provisions of the Public Interest Disclosure Act 1998), the following are possible contact points:

- Secretary of State for Education
- Office of Qualifications and Examinations Regulation
- Ofsted
- Local Authority
- Children's Commissioner
- NSPCC
- National Audit Office
- The Health and Safety Executive
- The Environment Agency

If a matter is taken outside the Academy, the employee must take all reasonable steps to ensure that confidential information is not disclosed.

## **APPENDIX 1**

### **Staff Responsibilities**

#### **All Staff Responsibilities**

It is the responsibility of all members of staff to ensure that their own behaviour is appropriate to the Academy and the Trust as a workplace and does not contribute to an environment in which malpractice or wrong doing is either ignored, condoned or encouraged. All staff should challenge such behaviour if it occurs, or bring it to the attention of a Relevant Person.

#### **Academy Lead Responsibilities**

Academy Leads have a duty which they share with others in leadership/managerial roles to establish and maintain a positive and accountable working environment. In particular, Academy Leads are responsible for:

- communicating the policy to all staff in such a way as to promote its' understanding and making it easily accessible;
- managing staff in a professional and sensitive manner;
- ensuring that the Academy environment has a culture where malpractice and or wrong doing is unacceptable;
- ensuring that the policy is implemented effectively and efficiently at all levels throughout the Academy;
- taking all concerns raised seriously, ensuring the necessary action is taken to address the matter promptly, and as sensitively and confidentially as possible;
- ensuring that appropriate support is available to complainants during the investigation of their complaint; this may be via a colleague or trade union representative;
- making it clear that malicious and vexatious allegations are serious matters and will not be tolerated;
- ensuring that appropriate support is available to witnesses during the investigation of the complaint; this may be via a colleague or trade union representative.

#### **Trust Board Responsibilities**

The trust board has the responsibility to:

- meet its legal duties and responsibilities and act at all times within the legal framework;
- have an up-to-date and comprehensive Whistleblowing policy;
- receive reports from the Academy Lead and Central Leadership Team on the application of the procedure;
- agree that the Executive Principal be the contact for complaints made against a Academy Lead;

- Agree that in the event of a complaint against the Executive Principal, the chair of trustees will be the contact, if unavailable a serving member of the trust board.