



# Confidential Reporting (Whistleblowing) Policy 2021/2022

Signed by:

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Date: 10/01/2022

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Date: 10/01/2022

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## Introduction

Education Learning Trust is dedicated to providing the utmost care for its pupils and staff. We aim to ensure that all members of the school community feel safe in the knowledge that they can voice any concerns in confidence and that they will be taken seriously and dealt with appropriately.

Staff who are concerned about the conduct of a colleague towards a pupil, for example, or misuse of school funds or resources, are undoubtedly placed in a very difficult position. They may worry that they have misunderstood the situation and they will wonder whether a report could jeopardise their or their colleague's career. This policy enables staff to raise concerns or allegations in confidence and for a sensitive enquiry to take place.

Education Learning Trust takes responsibility for ensuring that all staff are aware of whistleblowing policy and procedures and how concerns will be managed. We will ensure that all concerns raised with them by whistleblowers will be treated properly and fairly.

## Scope and Purpose

This policy aims to:

- Encourage employees to feel confident about raising serious concerns and to question and act upon their concerns;
- provide avenues for employees to raise those concerns and receive feedback on any action taken;
- allow employees to take the matter further if they are dissatisfied with the School's response; and
- reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have made any disclosure in the public interest.

This policy has been formally adopted by the Trust Board.

## Legal Framework

This policy has due regard to all relevant legislation and guidance documents including, but not limited to, the following:

- Employment Rights Act 1996
- Public Interest Disclosure Act 1998 (PIDA)
- ESFA Academy Trust Handbook 2021
- Equality Act 2010; Health and Safety at Work Act 1974
- Protection from Harassment Act 1997
- Management of Health and Safety at Work Regulations 1999 (SI 199/3243)
- DFE (2021) Keeping children safe in education 2021

This policy operates in conjunction with the following school policies:

- ELT Staff Grievance Policy
- ELT Staff Discipline Policy
- ELT Data Protection Policy

- ELT Records Management Policy
- ELT Complaints Policy
- Dignity at Work
- The Professional Role
- Health, Safety and Welfare

This policy does not apply to situations covered by statutory reporting procedures or mechanisms that exist for raising particular issues e.g. the grievance procedure exists for issues around employment, parental complaints (managed through the ELT complaints policy/procedure), child protection issues should be directed in the first instance to the Local Authority Designated Officer.

### **Data Protection**

As part of the application of this policy, the trust may collect, process and store personal data in accordance with our data protection policy. We will comply with the requirements of **Data Protection Legislation** (being (i) the General Data Protection Regulation ((EU) 2016/679) (unless and until the GDPR is no longer directly applicable in the UK) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998, including the Data Protection Act 2018) in the collecting, holding and sharing of information in relation to our workforce. Records will be kept in accordance with our Workforce Privacy Notice, our Records Management Policy and in line with the requirements of Data Protection Legislation.

### **The Public Interest Disclosure Act**

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.

Your line manager is the first point of contact for whistleblowing concerns, then the headteacher. If the allegation is related to the headteacher, the concern should be raised with the chair of governors.

The **CEO** will be responsible for receiving any allegations raised about members of the trust central team.

The **Chair of Trustees** will be responsible for receiving any allegations raised about the CEO.

Any member of the school community or the general public is able to “blow the whistle”; however, the PIDA only protects employees.

### **Definitions**

**Whistleblowing:** Inside the workplace is defined as the reporting by workers or ex-workers of wrongdoing, such as fraud, malpractice, mismanagement, breach of health and safety law, safeguarding or any other illegal or unethical act either on the part of management, the governing body, trust board or fellow employees.

This will usually be something you have seen at work, though not always. As well as employees, workers may include volunteers, contractors and outside agencies or others. Such a disclosure, made in the public interest, will be under the protection of the Public Interest Disclosure Act 1998.

**Qualifying disclosures:** As outlined by the PIDA, qualifying disclosures pertain to when any of the following takes place:

- A criminal offence has been committed, is likely to be committed or is being committed
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health or safety of any individual has been, is being or is likely to be endangered
- the environment has been, is being 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

This may be about something that:

- is against the School's procedures and protocols as set out in its constitution;
- amounts to improper conduct; or
- is an abuse of power for personal gain.

**In the public interests:** This 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

**Grievances:** These 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 and blowing the whistle.

## **Roles and Responsibilities**

This section outlines the roles and responsibilities for the main parties involved in creating a safe environment where individuals with a concern about school practices come forward to report them in the public interest. These lists are not exhaustive.

## **Trust Board**

The Trust Board will be responsible for:

- establishing and agreeing the whistleblowing procedure.
- ensuring the agreed whistleblowing procedure is published on the trust's website.
- monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
- ensuring all members of the school community have access to this policy.
- investigating, in liaison with the headteacher, any concerns that are raised.

- ensuring this policy provides an open and transparent framework where members of the school community can raise their concerns.
- taking the necessary action against members of staff following an investigation into any alleged malpractice.
- ensuring that the minutes of the governing board include a record of the school's whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.

### **Senior Leaders (Headteacher or equivalent)**

Senior leaders play a lead role in creating an open and transparent culture where school policies and procedures are embedded, monitored and followed. They are responsible for ensuring that:

- all staff are aware of this policy and associated procedures and receive appropriate training where necessary;
- they set a good example by their behaviour;
- all reports of malpractice reported to them are taken seriously and investigated;
- employees who make an allegation in the public interest are not victimised; and
- confidentiality is preserved where appropriate.
- good practice is followed in the areas that they manage;
- respond to and support employees who report concerns under this policy;
- treat all concerns seriously and sensitively;
- ensure that the correct policy is used to pursue concerns if the Whistleblowing policy is not applicable;
- encourage employees to raise their concerns in writing;
- provide full and clear advice to employees on the procedures to be followed.

If they do not carry out their responsibilities under this policy, then they may be subjected to disciplinary action and claims from the employee that they also contravene the policy.

### **All members of the School Community**

All are responsible for:

- reporting any public interest concerns they have as early as possible;
- raising the concerns in writing (if possible);
- putting their name to any allegations rather than making them anonymously (where possible)
- reporting if they are victimised after raising a concern under this policy; and
- acting in the public interest at all times.
- not raising malicious or unfounded concerns.

### **Non-Employees**

The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned. Irrespective of this, the school 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 ELT Complaints Procedures Policy.

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

## **Confidentiality**

All concerns will be treated in confidence, and the school/trust is committed to protecting the identity of whistleblowers as far as is possible. However, in some circumstances it may not be possible to do this, for example: if it will prevent a thorough investigation taking place; if there is reason to reveal the name by law; if the whistleblower has to give evidence at any hearings.

In cases where identities are revealed for whatever reason, the school/trust will do its best to support all parties involved and protect them from discrimination and victimisation.

Confidentiality is a priority throughout any investigation, and continues to be once the investigation is over, and we urge staff to closely follow all guidelines relating to confidentiality. Any member of staff that has acted knowingly against this, or revealed confidential information unnecessarily or for vicious reasons, may face prosecution.

## **Anonymous Allegations**

We would encourage all staff to put their name to concerns made as it will aid a more thorough investigation. However, the school will investigate all anonymous allegations seriously; following the proceedings outlined in this policy as far as is possible.

## **False Allegations**

Education Learning Trust encourages all staff to voice their concerns and allegations safe in the knowledge that those who make allegations in good faith that do not prove to be true will not be reprimanded.

The school may take disciplinary action against staff who make claims that are found to be knowingly false, malicious, vexatious or for personal gain.

## **Harassment or Victimisation**

The Education Learning Trust will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when they raise a concern in the public interest.

In addition, the Public Interest Disclosure Act 1998 protects employees from reprisals as long as they meet the rules set out in the Act. The school may be fined for not protecting anybody making a disclosure in the public interest.

Any investigation into allegations of potential wrongdoing including malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect them.

## **How to Report a Concern**

To raise a concern believed to be covered by the Whistleblowing Policy, we hope staff will feel able to raise it first with your immediate line manager. Alternatively, it can be raised with the Headteacher.

This may depend, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if it suspected that the staff member's line manager is involved, approach the Headteacher. If it is believed the Headteacher is involved, the Chair of Trustees should be approached.

When reporting a concern, staff should provide information about the background and history of the concern. Where possible, give names, dates and places and the reasons why this is a particular concern. **Appendix A** is a template that should be used to put your concern in writing.

All concerns will be taken seriously by the school and investigated thoroughly. If a staff member is in any doubt as to whether a concern is valid, it should still be reported.

### **Dealing with the Concern**

The line manager/headteacher will write to whistleblower to confirm that the concern has been received, as well as to indicate proposals for dealing with the matter.

The initial stage will be an interview with the whistleblower, and then an assessment of further action will be discussed. During this initial stage, the line manager/headteacher will establish if:

- there are grounds for a concern and that it is genuine.
- the concern was raised in accordance with this policy.

During the initial interview, the headteacher/line manager will request the individual put their concern in writing, if they have not already done so. The headteacher/line manager will write a summary of the concern if the individual is unable to put it in writing.

The headteacher/line manager 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 school 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 Trust board 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 action may be brought against them.

If an investigation is carried out, the whistleblower will 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 school's Records Management Policy.

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 or a fellow member of staff not involved in the area of work that the concern relates to. 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 school and to assist in monitoring the procedure.

The whistleblower will be informed of the results of the investigation within **10 working days**, and any action that is proposed will be subject to third party rights. Where action is not taken, the whistleblower will be given an explanation.

A summary of the reporting procedure can be found at Appendix B

### **What the ELT asks 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 school unless it is to report the concern through the proper external channels.
- 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.

### **Protection and Support for Whistleblowers**

It is understandable that whistleblowers are sometimes worried about possible repercussions. We aim to encourage openness and will support staff who raise genuine concerns under this policy, even if they turn out to be mistaken. Staff must not suffer any detrimental treatment as a result of raising a genuine concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Chair of Trustees immediately. If the matter is not remedied you should raise it formally using our Grievance Procedure.

Staff must not threaten or retaliate against whistleblowers in any way. Anyone involved in such conduct will be subject to disciplinary action.

### **If you are not Satisfied**

While we cannot always guarantee the outcome you are seeking, we will try to deal with your concern fairly and in an appropriate way. By using this policy, you can help us to achieve this.

If you are not happy with the way in which your concern has been handled, you can raise it with the Chair of Trustees or one of the contacts in the Wider Disclosure section below.

### **Wider Disclosure**

If you feel like they are unable to raise a safeguarding-related concern with the school, you can contact the NSPCC Whistleblowing Helpline on 0800 028 0285 or the LADO.

The law recognises that in some circumstances it may be appropriate to report concerns to an external body such as a regulator. It will very rarely if ever, be appropriate to alert the media. We **strongly encourage** you seek advice before reporting a concern to anyone external. Protect holds a list of prescribed regulators for reporting certain types of concern. Alternatively, the list is available from the Department for Business, Energy & Industrial Strategy<sup>1</sup>. Protect is a registered charity that advises on whistleblowing queries. The Protect website can be accessed [here](http://www.protect-advice.org.uk) (www.protect-advice.org.uk), or they can be contacted on 020 31172520.

To report a concern to the ESFA, use the [online contact form](#) found on the Gov.UK website.

Where a matter is reported to an external organisation, confidential information must not be disclosed unnecessarily.

### **Recording, Monitoring and Evaluation**

All staff concerned and involved with any allegation or investigation should keep good records of meetings they attend, discussions that are held, and any outcomes or action points that have been decided.

Each school must keep a record of all concerns raised in their school and report these to the HR and Compliance Manager of the trust central team.

The trust will maintain a central record of all concerns raised by employees made under the Public Interest, anonymising the identity of the whistleblower and use this information for the purposes of identifying areas of concern, which may indicate further action is required.

### **Review**

This policy will be reviewed annually.

## Appendix A - Confidential Reporting – Disclosure Form

Description of the Concern: Please put as much detail as you can to assist in any investigation which might be required, - include date(s), time(s), person(s) involved, witnesses, location, why you are concerned and length of time you have been concerned (please use extra sheet if necessary).

Have you discussed your concerns with anyone?

- include details of with whom, when and what the results of the discussion were.

You are encouraged to put your name to this report. Concerns expressed anonymously are much harder to investigate

Name

Contact details

Signed

Date

On completion the form should be returned to your line manager or headteacher in a sealed envelope marked 'Private and Confidential'

**Appendix B - Summary of Confidential Reporting procedure**



