



**St Edmundsbury and Ipswich**

Diocesan Multi Academy Trust



**Stoke by Nayland C of E Primary School**

**MAT WHOLE STAFF WHISTLEBLOWING POLICY**

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# PROCEDURE FOR ALL STAFF

## 1. Introduction

- 1.1 The Trust has a responsibility to ensure that its academies are managed to the highest standards of probity, and that its decision making and administration are conducted in such a way as to be above any suspicion of malpractice.
- 1.2 Clear policies, standards and procedures for making decisions, particularly those which entail significant expenditure, or decisions which significantly affect employment within the Trust are essential elements in creating and sustaining an atmosphere of openness and trust.
- 1.3 Staff who raise concerns about malpractice within their place of work have statutory protection against victimisation under the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013. A worker must reasonably believe the disclosure to be in the public interest, and it must otherwise qualify as a protected concern (see section 3 for more detail).
- 1.4 Academies have obligations under the UK Corporate Governance Code to maintain a sound system of internal control. Adopting a whistleblowing procedure is essential to the principles of accountability, transparency and probity, which underpin good governance. Further, this policy is intended to demonstrate the Trust's commitment to high standards of conduct in its affairs in establishing the basis on which any worker can properly raise concerns without prejudice to his/her position.
- 1.5 This policy applies to all workers of the St Edmundsbury and Ipswich Diocesan Multi-Academy Trust ('the Trust'), including those who are centrally employed and not working within a school. Individuals working within the Trust under contract arrangements with external providers should refer to their employer's own procedures.
- 1.6 Employers are liable for any detriment a whistleblower suffers as a result of having made a disclosure, if the detriment was done by another worker in the course of employment (even if was without the employer's knowledge), or by an agent of the employer (with the employer's authority). This is balanced by the ability for an employer to defend itself by showing that it took all reasonable steps to prevent the detriment from occurring. This includes having a policy on whistleblowing, ensuring staff are aware of it, and that it is followed when cases arise.
- 1.7 Individuals can also be found legally liable for detriment they caused a whistleblower, unless they can show they have acted in response to a statement from the employer, which it was reasonable to rely upon

## 2 Purpose of the policy

- 2.1 A purpose of the policy is to give all members of staff the confidence to come forward through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate person, any serious impropriety or breach of procedure or raise issues of concern.

- 2.2 This policy is also intended to guide workers as to the process they should follow in making a disclosure, including how and to whom issues should be raised.
- 2.3 The policy also sets out the safeguards that the Trust will offer to any worker who makes a disclosure in the recommended way.

### **3 Definitions and exclusions**

#### ***Who receives statutory protection?***

- 3.1 The Public Interest Disclosure Act 1998 and Enterprise and Regulatory Reform Act 2013 protect workers who make qualifying disclosures from any detriment as a result of making a disclosure.
- 3.2 Individuals who make a qualifying disclosure do not need to have been employed for a minimum period.
- 3.3 Protection from detriment is afforded to workers as well as employees, including casual and freelance workers, internal secondees, trainees and agency workers. It also applies to former employees who make disclosures after the termination of their employment.
- 3.4 To be afforded protection, staff must also raise their concerns in an appropriate manner (see section 4 for details). This would normally be via internal processes. In certain cases the law also protects disclosure to “prescribed regulators”, for example, the Audit Commission.
- 3.5 The law only protects wider disclosure (e.g., to the media, an MP, etc.) in certain circumstances, namely if:
- the worker reasonably believed they would be victimised if they had raised the matter internally or with a prescribed regulator;
  - there was no prescribed regulator and they reasonably believed the evidence would be concealed;
  - the concern had already been raised with the employer or prescribed regulator;
  - the concern was exceptionally serious;
  - and no payment was accepted for the story.

#### ***What types of issues are covered by this policy***

- 3.6 The issues covered by the policy include the following:
- Unlawful or a criminal offence
  - Fraudulent or improper use of a school’s money or assets
  - Lapses in child protection
  - Health and Safety risks including dangerous practices at work
  - Corruptly receiving any gift or advantage
  - Allowing private interest and those of a school to conflict
  - A miscarriage of justice

- Maladministration, misconduct or malpractice
- Endangering of an individual's health and safety or welfare
- Damage to the environment
- Concealment of any of the above.

3.7 Staff must reasonably believe that their disclosure is made within the public interest.

***What nature of detriment are workers protected from?***

3.8 Some examples of detriment linked to a protected disclosure are:

- harassment and bullying,
- inappropriate disciplinary action,
- loss of work or pay,
- damage to career prospects,
- providing poor references,
- defamation,
- inappropriate referral to external organisations for audit or scrutiny,
- not considering an individual for a role if they re-apply,
- dismissal or selection for redundancy (because of making a qualifying disclosure).

***Other relevant guidance and procedures***

3.9 Complaints by workers about their personal treatment or the way in which employment policies and practices have been applied to them should be raised via the grievance procedure or other appropriate procedure.

3.10 Complaints about the protection of children should normally be raised under the separate procedures designated for that purpose.

**4 Procedure for making a disclosure**

4.1 The means of making a disclosure will depend upon the nature and seriousness of the concern, the sensitivity of the issues and the individual(s) thought to be involved in the malpractice reported.

***Lines of reporting***

4.2 As a general rule, a worker wishing to make a disclosure should raise the concerns in the first instance with the Headteacher or the Chair of the Local Governing Body ('LGB'). This is appropriate where the concern is about the conduct or practice of colleagues/ a concern that the school's policies and procedures are not being properly or fairly applied. This enables the issue to be addressed at school-level.

4.3 Where an individual believes that s/he cannot approach the Headteacher or the Chair of the LGB, the concern should be raised with the Trust's Chief Executive Officer at [jane.sheat@cofesuffolk.org](mailto:jane.sheat@cofesuffolk.org). This will be appropriate if the disclosure concerns the conduct of the Headteacher or the LGB, or if a disclosure has already been made to them and no discernible or timely action has been taken to address it.

4.4 In exceptional circumstances an individual may approach the Secretary of State, who will refer it back to the Education and Skills Funding Agency. This will normally only be appropriate if they reasonably believe that the Trust is involved in the malpractice or would for some other reason be unwilling to investigate it.

### ***Process of disclosing***

4.5 A disclosure may be made verbally (e.g. by telephone) or in writing. An individual should normally identify themselves and should make it clear that they are making a disclosure within the terms of this policy.

4.6 An individual raising a concern verbally will normally be expected to support and substantiate such concerns in writing, unless there are special circumstances indicating that this is inappropriate. If the individual feels unable to commit their concerns to writing they will normally be asked to meet with an appropriate senior officer, who will compile a written note of the disclosure.

4.7 The individual may be accompanied by a trade union representative or appropriate workplace colleague at meetings that are held for the purpose of formally discussing or investigating the disclosure.

4.8 It is not necessary for an individual to produce conclusive evidence to support their disclosure. Suspicion may be valid grounds for raising a concern. However, an individual should normally have direct information about, or knowledge of, the malpractice alleged, or know where such evidence is located. The concern should be based on more than hearsay, gossip, or the reports of others. It would be expected that the disclosure would include specific examples of unacceptable behaviour.

4.9 Disclosures should not be made to the press, radio, television or other media. The recommended internal reporting channels should be used. Workers have certain obligations to report malpractice to specified external agencies, e.g. a worker who suspects that a criminal act has been committed may inform the police. However, it is expected that individuals make disclosures following the reporting lines set out above.

## **5 Responding to a disclosure**

5.1 The response to an individual's disclosure will depend upon its seriousness and complexity.

5.2 Allegations may be:

- investigated within a school;
- referred to the internal or external auditors;
- referred to the police;
- referred to the Trust's Chief Executive Officer;
- referred to the Chair of the Trust's Board of Directors;
- referred to another independent form of enquiry; or
- any combination of the above.

5.3 A school may wish to commission an external independent investigator.

- 5.4 Disclosures will be subject to initial enquiries in order to decide whether a full investigation is necessary and, if so, what form it should take, who should conduct it, and whether any reference to another agency is necessary or desirable. Some concerns may be resolved through agreed action without the need for further investigation.
- 5.5 If an individual's concern falls within the scope of an alternative procedure, they will be advised to pursue it through that procedure.
- 5.6 An individual who presents his/her disclosures in writing will, wherever possible within ten working days, receive:
- an acknowledgement that the concern has been raised;
  - an indication of how the school proposes to deal with the matter;
  - an estimate of how long it will take to provide a final response;
  - an indication of any initial enquiries that have been made; and
  - an indication of whether further investigations will take place and, if not, why not.
- 5.7 An individual will be informed of the outcome of any investigation insofar as this is compatible with any duty of confidentiality on the Trust/school. The extent of the information given to an individual will depend upon a number of factors, for example, whether the investigation is referred to the police and leads to criminal prosecution. Where an investigation is protracted, it is recommended that the school keeps the individual updated on the progress of the investigation, as silence may lead them to become suspicious of inaction, and make a disclosure externally.
- 5.8 Where an individual is unwilling to identify him/herself, any person receiving a complaint about malpractice should log the incident and seek advice from the Schools' HR provider, to consider whether any investigation should be undertaken.

## **6 Safeguards for individuals making qualifying disclosures (see also section 3.8)**

### ***Internal procedures***

- 6.1 The decision to report malpractice can be a difficult one for staff, who may possibly fear subsequent victimisation or harassment. No action will be taken against staff who raise a concern in the proper way, and which they reasonably believe to be in the public interest, even if that concern is subsequently discovered to be unfounded after investigation.
- 6.2 Individuals who are already the subject of investigation or action under a formal procedure (e.g. discipline, capability or harassment) and who make a qualifying disclosure, should not expect the procedure to be discontinued, unless there is an exceptional reason for doing so.

### ***Other protections***

- 6.3 To harass, bully, or otherwise subject a person to detriment because they have made a qualifying disclosure, or assisted in the investigation of one (for example as a witness), will be considered a disciplinary offence.
- 6.4 Where individuals (who have made a qualifying disclosure) do not wish to be identified to others in the course of an investigation, as far as is reasonably practicable the Trust/school will make efforts to meet that request. However anonymity cannot be guaranteed. The process of investigation may reveal an individual's identity and, specifically in serious cases, an individual may be required to give evidence, either by the school or the police. Any person subject to disciplinary action or criminal prosecution has access to all the evidence.
- 6.5 The school will take all reasonable steps to minimise any difficulties individuals may experience as a result of raising a concern. The school will consider sympathetically requests from individuals for special leave, counselling or other support.

## **7 Improper disclosures**

- 7.1 No action will be taken against an individual if a concern is raised in the proper way, which s/he reasonably believes to be in the public interest. However, if allegations are not raised in the proper way, and/or the individual cannot show that s/he reasonably believes it to be in the public interest, disciplinary sanctions may follow. This is particularly likely if it is believed that the disclosure was also malicious, vexatious, or made for personal gain.

## **8 How the matter can be taken further**

- 8.1 This policy is intended to provide individuals with an avenue to raise concerns with their school. If an individual is not satisfied, and wishes to take the matter further, the following are possible contact points:
- Audit Commission 0303 444 8330
  - Recognised trade union
  - Elected Suffolk County Council member
  - The Health and Safety Executive 01245 706222
  - Information Commissioner 0303 123 1113
  - The Pensions Regulator 0845 600 7060
  - Local Government Ombudsman 0300 061 0614
  - OFSTED 0300 123 3155
  - A Solicitor
  - The Police
  - Education and Skills Funding Agency [fraud.reports@educ.gov.uk](mailto:fraud.reports@educ.gov.uk)
- 8.2 If the matter is taken outside the school, the individual must take all reasonable steps to ensure that confidential or privileged information is not disclosed (i.e. confidential information, in whatever format, must not be handed over to a third party).