



**Southfields
Academy**

**WHISTLEBLOWING POLICY AND
PROCEDURE**

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WHISTLEBLOWING POLICY AND PROCEDURE

INTRODUCTION

The Board of Trustees has introduced this Code of Practice to establish sound procedures for referral and investigation of any internal reports of malpractice. Such reports can concern fraud or potential fraud, but can also cover a range of other things. Recently, the reporting arrangements for such matters has become known collectively as “whistleblowing”, and attention has been focused, nationally, on more formalised procedures

Underpinning the introduction of a formal policy and associated procedures is the view that to disclose genuine malpractice internally is the right course of action. These policies and procedures can also help protect children and vulnerable adults to whom the Board of Trustees owes a duty of care.

No particular concerns have prompted a more formal procedure on “whistleblowing” at this time.

DEFINITION OF WHISTLEBLOWING

Whistleblowing is when an employee provides certain types of information, usually to an employer or regulator, which has come to their attention through work. The disclosure may be about the alleged wrongful conduct of the employer, or the conduct of a fellow employee, or any third party. The whistleblower is usually not directly or personally affected by the danger or illegality, although they may be. Whistleblowing is therefore “making a disclosure in the public interest” and occurs when an employee raises a concern about danger or illegality that affects others.

THE LEGAL POSITION

Employees who make a ‘protected disclosure’ can make a claim to an employment tribunal if they are treated badly or dismissed under The Public Interest Disclosure Act 1998 and subsequent amendments, for example the Enterprise and Regulatory Reform Act 2013. For a disclosure to be protected, the employee must follow the procedures laid down in legislation. From 25 June 2013 onwards, there is the public interest test and only disclosures which meet the test will be given the whistleblower legal protection.

CHANGES TO THE EXISTING CODE OF CONDUCT FOR SCHOOL BASE STAFF

The Board of Trustees has already adopted a Code of Conduct for School Based Staff, section 1.1 of which refers to reporting concerns about malpractice. To reflect the introduction of the whistleblowing arrangements, the existing section 1.1 has been revised to cover the new provisions. The new wording is enclosed as an **Appendix 1** for information.

1. PREAMBLE

- 1.1 Staff may well be the first to realise that there could be something seriously wrong within the Academy. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Academy. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Board of Trustees is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees with serious

concerns about any aspect of the school's work (e.g. abuse or neglect of a child) to come forward and voice those concerns via the complaints procedure. It is recognised that certain cases will have to proceed on a **confidential** basis. This document makes it clear that staff can do so without fear of reprisals. Indeed, the Whistleblowing Policy and Procedure are intended to encourage and enable staff to raise serious concerns **within** the Academy rather than overlooking a problem or blowing the whistle outside. This last point is very important. It is dealt with fully in sections 5 and 7 below.

- 1.3 These procedures are in addition to the other statutory reporting procedures and existing procedures for dealing with complaints.
- 1.4 This policy has been consulted on with the professional association and trade union representatives of teaching and support staff and has their support.

2. **AIMS AND SCOPE OF THIS POLICY**

2.1 This policy aims to:

- provide avenues for you to raise serious concerns about any aspect of the Academy's work and receive feedback on any action taken;
- allow you to take the matter further if you are dissatisfied with the Board of Trustees's response; and;
- reassure you that you will be protected from possible reprisals or victimisation for reasonable whistleblowing in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment. This whistleblowing policy is not intended to cover concerns that can be progressed under existing Human Resources procedures, e.g. complaints, child protection, racial or sexual harassment.

A serious concern may be about something that you sincerely believe in good faith:

- is unlawful; or
- is against the policies of the Academy; or
- falls below established standards or practice; or
- amounts to improper conduct; or
- is a health and safety risk to the public as well as other employees; or
- involves damage to the environment; or
- involves the unauthorised use of public funds; or
- involves possible fraud and corruption; or
- involves sexual or physical abuse of clients.

3. **FRAUD**

- 3.1 At this point, special mention should be made of fraud, corruption and financial irregularity.
- 3.2 Fraud within the public sector costs the taxpayer hundreds of millions of pounds each year and, in general, detected cases of fraud and corruption are on the increase.
- 3.3 All public sector organisations are likely to be affected in some way by fraudulent or corrupt activity.
- 3.4 The Metropolitan Police report that they cannot prosecute over half of fraud and corruption cases because of inappropriate action taken *before* the case is referred to them. Consequently the action that you take, if/when you first suspect fraudulent activity, may be crucial.
- 3.5 Because of the importance of this matter some of the following paragraphs concerned with whistleblowing give particular guidance on what you should and should not do if you suspect a fraud in the Academy.

4. **SAFEGUARDS**

4.1 **Harassment or Victimisation.**

The Board of Trustees is committed to good practice and high standards and wants to be supportive of employees.

The Board of Trustees recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Board of Trustees will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

- 4.2 This does not mean that if you are already the subject of disciplinary, redundancy or other procedure, that those procedures will be halted as a result of your whistleblowing.

4.3 **Confidentiality**

The Board of Trustees will do its best to protect your identity when you raise a concern and do not want your name to be disclosed. It must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence.

4.4 **Anonymous Allegations**

This policy encourages you to put your name to your allegation. Concerns expressed anonymously are much less powerful, but they will be investigated thoroughly although follow-up action will in such cases be at the discretion of the Board of Trustees.

- 4.5 In exercising the discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

4.6 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, when it appears that there are clear grounds for suggesting that you may have acted frivolously, maliciously or vexatiously, the Board of Trustees will undertake a disciplinary investigation. Dependent on the outcome, disciplinary action may then follow.

5. **HOW TO RAISE A CONCERN**

5.1 If you suspect fraud, corruption or financial irregularity, you should always inform the Principal/Headteacher directly.

5.2 For any other types of concern you should normally, as a first step, raise them with your immediate manager or their superior or the Principal/Headteacher. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. For example, if you believe the senior management is involved, you should approach the Chair of the Board of Trustees.

5.3 Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. If you do not feel able to put your concern in writing, you can request a meeting with the Principal/Headteacher.

5.4 The earlier you express the concern, the easier it is to take action.

5.5 Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

5.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

5.7 You may invite your trade union or professional association to assist you to raise a matter and may wish to seek their advice prior to initiating this procedure.

6. **HOW THE ACADEMY WILL RESPOND**

6.1 The Academy will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

6.2 The action taken by the Academy will depend on the nature of the concern. The matters raised may:

- be investigated internally
- be referred to the Police
- be referred to the external Auditor

6.3 In order to protect individuals and the Board of Trustees, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Academy will have in mind is the public interest. Concerns or

allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

6.4 Some concerns may be resolved by agreed action without the need for investigation.

6.5 Within ten working days of a concern being received, the Board of Trustees will write to you:

- acknowledging that the concern has been received;
- indicating how it proposes to deal with the matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any initial enquiries have been made; and
- telling you whether further investigations will take place, and if not, why not.

6.6 The amount of contact between the member of staff considering the issue and you, will depend on the nature of the matter raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

6.7 When any meeting is arranged off site if you so wish, you have the right, if you so wish, to be accompanied by a union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

6.8 The Board of Trustees will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, you will be advised about the procedure.

6.9 The Board of Trustees accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will receive information about the outcome of any investigation.

7. **HOW THE MATTER CAN BE TAKEN FURTHER, IF NECESSARY**

7.1 This policy is intended to provide you with a clear route to raise concerns **within** the Academy and for the concerns to be dealt with and settled appropriately.

7.2 Please raise a concern internally in the first instance. Complaints made to other bodies, individuals or the media may actually hamper a speedy, full and professional investigation of the concern that you have expressed.

7.3 Information which is provided to you on a confidential basis must be treated as such and this may only be overridden where there is a clear public interest in disclosing it and you act in good faith and reasonably. You would need to ensure that you could justify your disclosure because it would be a serious betrayal of trust to use confidential information for any personal advantage, or for malicious or other improper reasons.

8. **RECORD KEEPING**

8.1 The Chair of the Board of Trustees has overall responsibility for the maintenance and operation of this policy. The Chair will maintain a confidential record of concerns raised and the outcomes (so as not to endanger your confidentiality) and will report as necessary to the Board of Trustees.

9. CHECK LIST OF DO'S AND DON'TS

9.1 Lastly, some of the key points from the procedure on whistleblowing are summarised below:-

DO

(a) **Make an immediate note of your concerns**

Note all relevant details such as what was said in telephone or other conversations, the date, time and the names of any parties involved.

(b) **Convey your suspicions to someone with the appropriate authority and experience.**

- *Usually, to your immediate manager or their supervisor for other matters (but see paragraph 5.2 above for more details).*

(c) **Deal with the matter promptly, if you feel your concerns are warranted.**

In a case of suspected fraud, it is important to remember that any delay may cause the Board of Trustees to suffer further financial loss.

DON'T

(a) **Do nothing**

(b) **Be afraid of raising your concerns.**

- *You will not suffer any recrimination from the Board of Trustees as a result of raising in good faith a serious concern.*
- *The Board of Trustees will treat any matter you raise sensitively and confidentially.*

(c) **Approach or accuse any individuals directly.**

(d) **Try to investigate the matter yourself.**

There are special rules surrounding the gathering of evidence for use in disciplinary or court proceedings. Any attempt to gather evidence or other information by someone who is unfamiliar with these rules may destroy the case.

(e) **Convey your suspicions to anyone except those with the proper authority and as set out in this policy and procedure.**

10. ADVICE AND GUIDANCE

10.1 Further advice and guidance on how a matter may be pursued under this policy can be obtained from the Director of Human Resources.

Appendix 1

CODE OF CONDUCT FOR SCHOOL BASED STAFF

Revision to Section 1.1

This section now reads as follows:-

“Headteachers, teachers and support staff are expected to give the highest possible standard of service and to behave with impartiality. The Board of Trustees has approved a Policy and Procedure which is intended to encourage and enable teaching and support staff to raise serious concerns within the Academy rather than overlooking a problem or “blowing the whistle outside”.

The Policy has three aims:-

- (a) to provide avenues for all staff to raise concerns and receive feedback on any action taken;
- (b) to allow all staff to take the matter further if they are dissatisfied with the Academy’s response; and
- (c) to reassure all staff that they will be protected from reprisals or victimisation for whistleblowing in good faith.

If at any time an employee has a concern about something which he/she sincerely believes:-

- is unlawful; or
- is against the Academy’s Standing Orders or policies; or
- falls below established standards or practice; or
- amounts to improper conduct –

he/she must follow the advice given in the “Policy and Procedure on Whistleblowing”. This contains full details about what should be done by the employee. A copy of the Policy and Procedure can be obtained from the HR Department.