

# Brighter Futures Academy Trust

## Whistleblowing Policy



<b>Name of Policy Writer/Amendments</b>	<b>Date Written/Amended</b>	<b>Next Review Date</b>
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## **1. Introduction**

- 1.1 The 1998 Public Interest Disclosure Act inserted provisions into the Employment Rights Act 1996 to give protection to 'whistle-blowers' who raise concerns, by making a protected disclosure, about serious fraud or malpractice at their place of work against victimisation or dismissal, provided they have acted in a responsible way in dealing with their concerns.
- 1.2 For the disclosure to be protected by the law it must be made to the right person and in the right way. Staff must have a reasonable belief that:
- any disclosure of information is in the public interest
  - any disclosure of information is being made to the correct 'prescribed person'
  - any information disclosed is substantially true.

## **2. Purpose and scope**

2.1 This policy may be used by all workers/staff members at the academy trust to raise concerns where the wellbeing of others or that of the academy trust itself is at risk, for instance with regard to the commission of criminal offences or employment of practices endangering health and safety.

2.2 The term 'staff/staff member' in this policy broadly includes: employees, contractors, agency workers, trainees, and a person who is or was subject to a contract to undertake work or services for the academy trust.

2.3 The policy encourages staff to feel confident in raising serious concerns and to question and act upon concerns about practices within the academy trust. It aims to establish a fair and impartial investigative procedure and ensure that staff receive a response to concerns and are aware of how to pursue them if they are not satisfied.

2.4 This policy enables the academy trust to comply with the Public Interest Disclosure Act 1998 and the Public Interest Disclosure (Prescribed Persons) Order 2014. The whistle-blowing procedure is intended to cover major concerns that may fall outside the scope of the academy trust's other procedures (e.g. health and safety). These include (this list is not exhaustive):

- possible fraud and corruption
- unauthorised use of academy trust funds
- failure to comply with academy financial regulatory and compliance matters
- failure to comply with Codes of Practice
- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks including risks to children, public and colleagues
- damage to the environment
- other unethical conduct

## **3. Employer responsibility**

3.1 As the employer of staff in the academy the academy trust has overall legal responsibility for ensuring that the academy has a whistleblowing policy. The board of trustees is responsible for the running of the academy and through academy

management will maintain a record of concerns raised and outcomes (in a format that will not compromise confidentiality).

- 3.2 The academy trust recognises that the decision to report a concern can be a difficult one not least because of fear of reprisals from those responsible for the alleged failure or malpractice. The academy trust does not tolerate harassment or victimisation and will take all necessary action to protect staff members when a concern is raised, being conscious of its vicarious liability for any employee's conduct should this amount to victimisation of a whistle-blower.

#### **4. How to raise a concern**

- 4.1 Concerns are most appropriately raised in writing. Any submission should set out the background and history of the problem, giving names, dates and places where possible. The submission should also clarify the reason why there is felt to be particular concern about the situation and should include sufficient grounds for this concern. It is advised that the earlier a concern is raised the easier it is to take action.
- 4.2 Staff are encouraged to involve their trade union or professional association and may be accompanied by a recognised trade union representative or work colleague during any meetings, reasonable time off from work being permitted for this purpose.
- 4.3 A form for recording the concern is available for use at Appendix 1.
- 4.4 It should be noted that should any staff member making a disclosure under the terms of the whistle-blowing policy already be subject to disciplinary, grievance or redundancy procedures, these procedures will not be halted as a result of any disclosure.

#### **5. Untrue or malicious allegations**

- 5.1 If an allegation is made in the public interest but is not confirmed by any subsequent investigation, no action will be taken against the staff member making the disclosure. However, malicious or vexatious allegations could lead to disciplinary action including proceedings for gross misconduct.

#### **6. Confidentiality**

- 6.1 Anyone bringing a whistle-blowing concern will be protected. The investigation process, may, however, reveal the source of the information and a statement may be required as part of the evidence. If however, the staff member does not wish to disclose their identity it could make it difficult to proceed with the matter.
- 6.2 Anonymous allegations are much less powerful and less likely to be effective although they may be considered by the academy trust.
- 6.3 Following discussions staff may consider raising a matter if there are two or more individuals who have had the same experience or have the same concerns. Care and judgement must, however, be exercised in all cases. Due consideration must be given to whether there are reasonable grounds for concern.

## **7. Raising a concern - internal procedure**

### **Notification**

- 7.1 A concern can be raised in writing or orally if preferred.
- 7.2 The staff member should raise their concern with the head of school or line manager (as appropriate) or, if the complaint is about the head of school, with the executive head teacher or if about the executive head teacher, with the chair of trustees. If the complaint is about the governing body/ board of trustees, it should be raised with the chair of the academy trust (or, if this is felt inappropriate, with the most relevant of the external bodies identified in paragraph 8.2).
- 7.3 The action taken by the head of school or chair of trustees will depend on the nature of the concern. The matters may be subject to:
- internal investigation
  - referral to the police
  - referral to other external enforcement agencies
  - consideration of the academy trust's disciplinary procedure should it relate to an employee (or employees).
- 7.4 An initial assessment should be made to decide whether an investigation is appropriate and if so what form this should take. Concerns or allegations that fall within the scope of other specific procedures (such as child protection) will normally be referred for consideration under those procedures.
- 7.5 It may be possible to resolve some concerns by agreed action without any requirement for an investigation. Within 10 working days of a concern being received, the executive head teacher or chair of trustees will write to the staff member:
- acknowledging receipt of the concern
  - indicating how it proposes to deal with the matter
  - giving an estimate of length of time to provide a response
  - indicating whether an initial enquiry has been made
  - indicating whether further investigations will take place.
- 7.6 The amount of contact between the person who considers the above issues and the staff member bringing the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought.
- 7.7 Subject to legal and confidentiality restraints, the staff member will receive information about the outcomes of any investigations.

## **8. Raising a concern - external procedure**

- 8.1 Whistleblowing to an external body without initially going through the internal procedure is inadvisable without compelling reason. Compelling reasons could be the involvement of senior management or serious health and safety issues.
- 8.2 The following bodies are the external regulatory authorities ('prescribed persons') who are most likely (within an educational setting) to be contacted in accordance with legal protection for whistle-blowers should a staff member feel that it is appropriate to take the matter outside of the academy trust (the list is not exhaustive):
- Ofsted
  - Ofqual
  - National Audit Office
- 8.3 Members of Parliament also qualify as 'prescribed persons'.
- 8.4 If a member of staff does not feel able to raise concerns in the ways outlined above, they should consult the Public Disclosure Act for information about other routes by which a disclosure may be made.

**Appendix 1: Report Form to Be Used For Public Interest Disclosures**

**Name of Academy:**

<b>Name</b>  (staff member making report - not compulsory but you are encouraged to insert your name)	
<b>Persons reported</b>	
<b>Concerns reported</b> (give full details of the background to the concern including names, dates and places; reasons why you are concerned – attach separate sheet if necessary)	
<b>Date</b>	
<b>Signed (if name appears above)</b>	