



THE CONSORTIUM  
ACADEMY TRUST

# WHISTLE-BLOWING POLICY

An Exempt Charity Limited by Guarantee  
Company Number 07665828

Status:	Live
Policy Owner (position)	Director of Human Resources
Statutory / Recommended	Statutory
Date Adopted	16 November 2018
Review Period	3 Years
Review Date	Under review
Advisory Committee	ELG
Linked Documents and Policies	The Public Interest Disclosure Act 1998. Safe & Appropriate Working Policy. Code of Conduct. Keeping Children Safe in Education (DfE). Safeguarding & Child Protection Policies & Disciplinary Policy and Procedure.

This Policy shall be reviewed in accordance with the above review date or earlier should there be a legal requirement, business requirement or any collective agreement that necessitates a change.

## 1. Background

1.1 Employees are often the first to realise that there may be something wrong within The Consortium Academy Trust (TCAT). However, they may decide not to express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Trust or 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. The Public Interest Disclosure Act 1998 provides statutory protection to employees making disclosures and the Trust extends the principles of that Act into this policy to give, Trustees, governors, partners, and members of the public the same route to raise concerns.

## 2. Definitions for the Purposes of this Policy

2.1 Irregularities fall within the following categories, of which the majority are criminal offences:

- **Fraud** – as set out in the Fraud Act 2006, which created a new general offence of fraud. Fraud can be committed by:

- False representation
- Failing to disclose information
- Abuse of position

Other offences created under the Fraud Act are:

- Possession of articles for use in frauds
- Making or supplying articles for use in frauds
- Participating in a fraudulent Business carried on by a sole trader
- Obtaining services dishonestly
- **Theft** – Dishonestly appropriating the property of another with the intention of permanently depriving them of it. This may include the removal or misuse of funds, assets or cash (Theft Act 1968).
- **False Accounting** - Dishonestly destroying, defacing, concealing or falsifying any account, record or document required for any accounting purpose, with a view to personal gain or gain for another, or with intent to cause loss to another or furnishing information which is or may be misleading, false or deceptive (Theft Act 1968).

- **Bribery**– A person is guilty of bribery, as defined by the Bribery Act 2010, if they either:
  - Offer, promise or give a financial or other advantage to another person, and intends the advantage:
    - To induce a person to perform improperly a relevant function to activity, or
    - To reward a person for the improper performance of such a function or activity
  - or
  - Offer, promise or give a financial or other advantage to another person, and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity
- **Money Laundering** - The conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime. (Money Laundering Regulations 2007)
- **Collusion** - The term “collusion” in the context of reporting fraud is used to cover any case in which someone incites, instigates, aids and abets, conspires or attempts to commit any of the crimes listed above.
- **Failure to observe** the laws of the land
- **Failure to observe**, or breaches of, The Constitution, Scheme of Delegation, Contract Procedure Rules and Financial Procedure Rules.
- **Failure to observe**, or breaches of, departmental procedures or Health & Safety Regulations - in some circumstances can constitute an irregularity, with potentially significant financial consequences.
- **Failure to observe**, or breaches of, procedures and guidelines issued by the respective Safeguarding Children Board with the risk that children may suffer harm. Section 10 of the Children Act 2004 place a duty on relevant partners, persons or bodies working with children to co-operate with a view to improving the well-being of children. It is this duty that supports early intervention to safeguard and promote children and young people’s well-being in order that good outcomes can be delivered.

N.B. In the case of child protection issues, the procedures and guidelines issued by the respective Academy's Children's Safeguarding Board must be followed and the Statutory document Keeping Children Safe in Education.

- **Failure to comply** with the Trusts employment policies including cases of harassment and bullying.
- **Failure to comply** with the Trusts policy and legal requirements in relation to the protection of children and vulnerable people.
- **All Benefit Related Fraud**, including Tax Reduction and Discounts, Tenancy Fraud and Blue Badge Fraud etc.

### 3. Policy Statement

- 3.1 The Trust are committed to the highest possible standards of openness, probity and accountability and expects that Trustees and employees at all levels will protect the Trust/Academy and its resources and lead by example, ensuring high standards of personal conduct and adherence to the Trust's and Academy's policies, procedures and rules.
- 3.2 In line with this commitment, we encourage employees, Trustees, governors, partners, with any concerns about any aspect of the Academy or Trust's work to come forward and voice those concerns. It is recognised that certain cases will have to proceed on a confidential basis.
- 3.3 The Trust and Academy will not tolerate any occurrence of irregularities, and operates a 'zero tolerance' approach to known instances and attempts. The Trust and the Academy will take all appropriate measures to protect its employee's and partners, including children and vulnerable people, and public funds and to reduce the risk of an irregularity occurring from either internal or external sources. Whenever an irregularity of any description is detected it will be investigated and appropriate prosecution, disciplinary and recovery action will be taken.
- 3.4 This Whistle-Blowing Policy applies to all employees, and workers (including those designated as casual, temporary, agency, authorised volunteers or work experience), contractors and partners working for the Trust on or off Trust premises, and the public and is intended to encourage and enable people to raise any concerns within the Academy or Trust rather than overlooking a problem or blowing the whistle outside without fear of reprisals or victimisation.
- 3.5 This policy aims to:
- encourage employees to feel confident in raising concerns;
  - provide avenues for employees to raise concerns in confidence (and if necessary anonymously) and receive feedback on any action taken;

- allow employees to take the matter further if they are dissatisfied with the Academy or Trust's response, and
- reassure them that they will be protected from reprisals or victimisation for whistle blowing and appropriate action will be taken should this occur.

3.6 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This Whistle-Blowing Policy is intended to cover concerns that fall outside the scope of other procedures.

#### **4. What is covered by the Policy?**

4.1 A concern may be about something that:

1. Is unlawful; or
2. Is against the Trust's Constitution or policies; or
3. Falls below established standards or practice; or
4. Amounts to improper conduct.

4.2 A concern can therefore relate to any unethical or unprofessional conduct relating to the Trust, including malpractice, and abuse. This not only covers acts that have actually occurred but also those that may potentially occur

4.3 Examples of malpractice in this context may include concerns about possible fraud and corruption, financial irregularities, dangerous procedures risking health and safety to the public as well as to other employees, abuse or bullying of clients including children and vulnerable people, evasion of statutory responsibilities, environmental issues, etc. The overriding concern should be that it would be in the public interest for the malpractice to be corrected and, if appropriate, sanctions applied.

#### **5. Public Interest Disclosure Act 1998**

5.1 This Act commenced on 2 July 1999 and gives statutory protection, within defined parameters, to employees who make disclosures about a range of subjects, which they believe to be happening within the employing organisation.

5.2 The Act has rules for making a protected disclosure:

- you must reasonably believe the disclosure is in the public interest
- you must believe it to be substantially true
- you must not act maliciously or make false allegations
- you must not seek any personal gain

5.3 By regulations issued under the Act, the Audit Commission has taken on new responsibilities as a “prescribed person” that involves receiving disclosures from employees when those employees are unable or unwilling to make the disclosure internally.

5.4 The Commission, along with their appointed representatives, has the responsibility to ensure that disclosures are properly investigated and will report its findings to the person making the disclosure.

## **6 Safeguards**

### Harassment or Victimisation

6.1 The Trust 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 alleged malpractice. Neither the Trust nor Academy will tolerate harassment or victimisation and will take action to protect an individual when an employee raises a concern.

6.2 This does not mean that if an employee is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of the whistle-blowing.

### Anonymous Allegations & Confidentiality

6.3 This policy encourages employees to put their name to the allegation. Concerns expressed anonymously are much less capable of being investigated effectively, but they will be considered by the Trust.

6.4 The factors to be taken into account in determining whether to proceed with an anonymous allegation would include the:

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

6.5 It must be appreciated that the investigation process may reveal the source of the information and a statement by the whistle-blower may be required as part of the evidence.

### Untrue Allegations

6.6 When making an allegation there must be reasonable belief that the concerns are true, though there is no requirement to provide evidence to prove the allegation. The whistle-blower must be able to show that they believe that disclosing the concern is in the public interest and that it is a reasonable view to hold in the circumstances at the time. Note that it is not the whistle-blowers responsibility to investigate the matter, it is the Trust’s responsibility.

- 6.7 If a whistle-blower makes an allegation that they believe is in the public interest, but it is not confirmed by the investigation, no action will be taken against them.
- 6.8 If, however, the allegation is malicious or vexatious, legal or disciplinary action may be taken against them.

## 7 How to Raise a Concern

- 7.1 This will depend on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.
- 7.2 Employee concerns should firstly be raised within the Academy they are employed in or the Trust with either:

Contact Position	Contact Details	Type of Concern
Your Head Teacher		All
Your Chair of Governors		All
The Chair of The Trust		All
Director of Human Resources		Employment policy related concerns only
Director of Finance		Financial Matters, including fraud.
Chief Executive Officer		All
Your Trade Union representative		All

- 7.3 Advice and guidance on how matters of concern may be pursued can be obtained from the same sources.
- 7.4 Whilst Headteachers should establish as many details as possible (by discussion with the whistle-blower only) they should formally report the incident to the Chair of the Trust and the Chief Executive Officer.
- 7.5 Where a concern/multiple concerns is/are raised that contain an element of potential non-compliance with one or more of the Academy's employment policies, the Headteacher/CEO will liaise with the Director of Human Resources to determine who will lead the investigation.
- 7.6 If the concerns are regarding abuse to children contact should be made with the Safeguarding Children teams as follows:

- Children – via Customer Services team - 01482 395500
- Out of Hours – Emergency Duty Team – 01377 241273

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7.7 If there is an immediate risk emergency services should be called on 999 or 101 for local Police.

7.8 If the whistle-blower is unable to talk to anyone in the Academy/Trust, or is not satisfied with the Academy/Trust response the following external agencies can be contacted:

Contact	Contact Details
External Auditor: Forrester Boyd	01472 350601
Company Solicitor, Rollits,	01482 337341
Local Authority Designated Officer (Safeguarding Children) or The NSPCC	01482 392139 0800 028 0285
Audit Commission – Public Interest Disclosure line	0845 052 2646
Public Concern at Work (they are an independent charity, which provides free advice for persons who wish to express concern about fraud and other serious malpractice)	020 7404 6609 <a href="mailto:helpline@pcw.co.uk">helpline@pcw.co.uk</a> <a href="http://www.pcaw.co.uk">www.pcaw.co.uk</a>
Humberside Police	0845 6060222 or 101 (Non emergency reporting line)

7.8 Concerns are better raised in writing. Whistle-blowers are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason why they are particularly concerned about the situation. If they do not feel able to put their concern in writing, the telephone numbers in 7.2 and 7.7 are provided as an alternative.

7.9 The earlier a concern is disclosed, the easier it is to take action. This is particularly important where the well-being of children may be at risk.

7.10 Although a whistle-blower is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for their concern. They do not need evidence just sufficient grounds for concern. Under no circumstances should they investigate a concern, as this may risk prejudicing any investigation, which could include a criminal investigation if it is warranted. Further, this will protect them from any repercussions.

7.11 A whistle-blower is entitled to invite their Trade Union Representative, or workplace colleague who is not involved in the area of work to which the concern relates or professional association to assist them in raising a matter.

7.12 Details of matters discussed with the contact will be kept confidential.



## **8. How the Trust/Academy will respond**

8.1 The action taken by the Trust/Academy will depend on the nature of the concern. The Chair of the Trust, Headteacher and CEO in conjunction with any other appropriate officer(s) will determine the most appropriate action to be taken. The matter raised may:

- be investigated internally
- be referred to the Police
- be referred to the external Auditor
- form the subject of an independent inquiry

8.2 In order to protect individuals, the Academy and the Trust, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

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

8.4 Where contact details have been provided, within ten working days of a concern being received, the Headteacher, CEO or Chair of the Trust will write to the whistle-blower:

- 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

N.B. In the case of child protection issues, the procedures and guidance issued by the East Riding Safeguarding Children Board or relevant Local Authority Safeguarding Children Board will be followed. The amount of contact between the employees considering the issues and the whistle-blower 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.

8.6 When any meeting is arranged, the whistle-blower will have the right, if they wish, to be accompanied by a Trade Union Representative or a workplace colleague who is not involved in the area of work to which the concern relates.

8.7 The Trust/Academy will take steps to minimise any difficulties, which may be experienced as a result of raising a concern. For instance, if the whistle-blower is required to give evidence in criminal or disciplinary proceedings, the Trust will advise them about the procedure.

8.8 The Trust/Academy accepts that the whistle-blower will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, they will receive information about the outcomes of any investigations.

## **9. How the Matter can be Taken Further**

9.1 This policy is intended to provide an employee with an avenue to raise concerns within the Trust. The Trust hopes you will be satisfied. If you are not, and if you feel it is right to take the matter outside the Trust, the following are possible contact points:

- relevant professional bodies or regulatory organisations
- your solicitor
- the Police
- Public Concern at Work
- Trade Union/professional association
- the Ombudsman
- the Trust's External Auditor

9.2 If the matter is taken outside of the Academy or Trust, a whistle-blower will need to ensure that they do not disclose information that is privileged to the Academy or Trust and if they are an employee that they do not breach their obligations under the Trust's Code of Conduct for Employees (see 9.3 below).

9.3 The Code of Conduct for Employees is available in each respective Academy. Whilst all of the code is important, the paragraph concerning contact with the press and media (including Social Media) is particularly relevant.

## **10. Responsibility**

10.1 The Responsible Officer, is the Chief Executive Officer, who has overall responsibility for the maintenance and operation of this policy.

10.2 The Director of Human Resources will maintain a record of concerns raised and action taken, which will not endanger the whistle-blowers confidentiality and will be reported as necessary to the Trust.

10.3 The Trust is committed to preventing occurrences of irregularities. To help achieve this objective there is a clear network of systems and procedures in place.

## **11. Outcomes**

11.1 The desirable outcomes of this policy are to:

- support the Trust's/Academy's 'zero tolerance' of irregularities
- reassure individuals that there is a safe alternative to silence
- promote the whistle-blower as a witness not complainant
- encourage leaders and managers to be open to concerns
- support the Trust in being a well-managed Multi Academy Trust
- promote effective compliance
- support the Trust's Risk Management Strategy.

## **12. Evaluation**

12.1 The success of this policy may be assessed by:

- the number of reported incidents of malpractice
- monitoring whether individuals feel able to report occurrences without fear or favour.