



# WHISTLEBLOWING POLICY

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# WHISTLE BLOWING POLICY

This policy applies to all employees of Elm, Oak and LeAF Studio (permanent, fixed term and casual).

## 1. Introduction:

- 1.1 There is a balance to be struck between the right of the individual member of staff to speak freely on a range of matters and the right of the Trust/Academy and/or colleagues to be protected against false and malicious accusations.
- 1.2 A whistle blowing procedure is about the ways in which concerns about malpractice may properly be raised within the Trust/Academy and if necessary outside the Trust/Academy.

## 2. Definition:

- 2.1 If workers bring information about a wrongdoing to the attention of their employers they are protected in certain circumstances under the Public Interest Disclosure Act 1998. This is commonly referred to as "blowing the whistle". The law that protects whistle-blowers is for the public interest – so people can speak out if they find malpractice in an organisation. Blowing the whistle is more formally known as "making a disclosure in the public interest". (refer to ACAS)

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the **public interest**) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment (pollution, etc)
- Deliberate attempt to conceal any of the above

This list is not exhaustive.

## 3. Principles in Supporting the Procedure:

- 3.1 Creation of an ethical, open culture. Communicate a code of conduct and ethics, through this policy.
- 3.2 Establish safe routes for communications of concerns. Appoint individuals or a group outside the normal line of management to receive complaints of irregularities or other concerns.
- 3.3 Protect the whistle-blower. The Trust/Academy will support and not discriminate against concerned employees provided any claim is made in good faith.

- 3.4 Establish a fair and impartial investigative procedure. The Trust/Academy responds to concerns by focusing on the problem rather than denigrating the messenger.
- 3.5 Remind staff of their duty of confidentiality. The duty of confidentiality is implied by the law in every contract of employment and prohibits employees from publicly disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Trust/Academy fails to properly consider or deal with the issue.

The Trust/Academy expects that its contractors and other agency workers will consider themselves under a similar duty.

- 3.6 Safeguard against abuse of the procedure. Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.
- 3.7 Uphold the right to disclose a concern. The individual member of staff has the right to disclose a concern/issue if the Trust/Academy does not deal with the matter.
- 3.8 Involve Trustees and staff in developing the policy and procedures.

#### **4. Legislation:**

- 4.1 The Public Interest Disclosure Act 1998 is designed to protect "whistle-blowers" from detrimental treatment and unfair dismissal. The people protected by the Act include workers, employees, third party contractor staff, agency workers and work experience providers.
- 4.2 Students may also have information which should be raised in the public interest and the Trust/Academy has a proper procedure in place for them to air their concerns.

#### **5. The Procedure:**

- 5.1 All parties will agree that the concern raised will be kept confidential while the procedure is being used.
- 5.2 The Representor (the person raising the concern) should raise their concern with their line manager. This may be done orally or in writing. The Representor has the right to have the matter treated confidentially:
  - If the line manager believes the concern to be genuine and that it is appropriate to use the Whistle Blowing Policy, the manager should contact the Principal (the Assessor).
  - Should it be alleged that the Principal is involved in the alleged malpractice the Executive Principal should be contacted to act as Assessor.
  - Should it be alleged that the Executive Principal is involved in the alleged malpractice the Chair of Trustees should be contacted as Assessor.
  - If the Representor feels unable to raise their concern with their line manager or the Principal in the first instant they may contact the Chair of Trustees direct. If this occurs, the Representor will be asked to justify why they feel unable to raise the concern with their line manager or the Principal.

5.3 The Assessor should:

- Interview the Representor within seven working days, in confidence, or immediately if there is a potential danger to loss of life or serious injury.
- Ensure that the Representor is clear that deliberately false or malicious accusations may be matters for the Trust Disciplinary procedures.
- Obtain as much information as possible from the Representor about the grounds for the belief of malpractice.
- Consult with the Representor about further steps which could be taken.
- Advise the Representor of the appropriate route if the matter does not fall under the Trust's Whistle Blowing Policy.
- Report all matters raised under the procedure to the Chair of Trustees.

5.4 At the interview with the Assessor, the Representor may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the Trust/Academy staff to take notes.

5.5 Within ten working days of the interview the Assessor will recommend to the Executive Principal/Principal one or more of the following:

- The matter be investigated internally by the Academy/Trust.
- The matter be investigated by the external auditors appointed by the Trust.
- The matter be reported to the Police.
- The route for the member of staff to pursue the matter, if it does not fall within the procedure.
- That no further action is taken by the Academy/Trust.

5.6 The grounds on which no further action is taken include:

- The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice **within the meaning of the procedure** has occurred, is occurring or is likely to occur;
- The Assessor is satisfied that the Representor is not acting in good faith;
- The matter is already (or has been) the subject of proceeding under one of the Academy/Trust's other procedures or policies;
- The matter concerned is already the subject of legal proceedings, or has already been referred to the Police, the external auditors, the Department for Education and Skills or other public authority.

5.7 Should it be alleged that the Executive Principal/Principal is involved in the alleged malpractice, the Assessor's recommendation will be made to the Chair of Trustees.

5.8 The recipient of the recommendation (Executive Principal/Principal or Chair of Trustees) will ensure that it is implemented unless there is a good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Trustees.

5.9 The identity of the Representor will be kept confidential unless the Representor otherwise consents or unless there are grounds to believe that the Representor has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representor except:

- Where the Assessor is under legal obligation to do so;
  - Where the information is already in the public domain;
  - On a strictly confidential basis to a professionally qualified lawyer for the purpose of legal advice;
  - Where it is essential that the Representor provides evidence at a disciplinary hearing or other proceedings.
- 5.10 The conclusion on any agreed investigation will be reported by the Assessor to the Representor within twenty eight days.
- 5.11 All responses to the Representor will be made in writing and sent to the Representor's home address.
- 5.12 If the Representor has not had a response within the above time limits, they may appeal to the Academy/Trust's external auditors, but will inform the Assessor before doing so.
- 5.13 The Representor may at any time disclose the matter on a confidential basis to a professionally qualified lawyer for the purpose of taking legal advice.
- 5.14 The Academy/Trust will ensure the Representor is protected from any form of victimisation or discrimination.

## **6. Malicious Accusations**

- 6.1 Deliberately false or malicious accusations made by a Representor will be dealt with under the Trust's disciplinary procedure.

## **7. External Sources**

- 7.1 Whistle blowing to an external source without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representor is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external sources which could be used are:
- Department for Education
  - Member of Parliament
  - National Audit Office
  - Health and Safety Executive
  - Police

## **8. Monitoring, Evaluation and Review**

- 8.1 The Trustees will review the policy at least every three years and assess its implementation and effectiveness. This review will seek to obtain comments and experiences of those who may have had reasons to invoke the procedure. The policy will be promoted and implemented through the Trust.