



Orchard Learning Alliance Whistleblowing Policy

This policy version has not been circulated to the Trade Unions as at 01/11/2023. The policy has been copied from the model policy from The Key and including some elements of the Wokingham BC model policy before the integration into Orchard Learning Alliance. Trade Unions will be consulted on this policy, along with our other key policies ahead of the integration of the first phase of schools into the Trust.

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1. Aims

This policy aims to:

- Encourage individuals affected to report suspected wrongdoing as soon as possible in the knowledge that their concerns will be taken seriously and investigated, and that their confidentiality will be respected
- Let all staff in the trust know how to raise concerns about potential wrongdoing in or by the trust
- Set clear procedures for how the trust will respond to such concerns
- Let all staff know the protection available to them if they raise a whistle-blowing concern
- Assure staff that they will not be victimised for raising a legitimate concern through the steps set out in the policy, even if they turn out to be mistaken (though vexatious or malicious concerns may be considered a disciplinary issue)

This policy does not form part of any employee’s contract of employment and may be amended at any time. The policy applies to all employees or other workers who provide services to the trust in any capacity including self-employed consultants or contractors who provide services on a personal basis and agency workers.

2. Legislation

The requirement to have clear whistle-blowing procedures in place is set out in the [Academy Trust Handbook](#).

This policy has been written in line with the above document, as well as [government guidance on whistle-blowing](#). We also take into account the [Public Interest Disclosure Act 1998](#).

This policy complies with our funding agreement and articles of association.

3. Definition of whistle-blowing

Whistle-blowing covers concerns made that report wrongdoing that is “in the public interest”. Examples of whistle-blowing include (but are not limited to):

- Criminal offences, such as fraud or corruption

- Pupils' or staff health and safety being put in danger
- Failure to comply with a legal obligation or statutory requirement
- Breaches of financial management procedures
- Attempts to cover up the above, or any other wrongdoing in the public interest
- Damage to the environment

A whistle-blower is a person who raises a genuine concern relating to the above.

Not all concerns about the trust count as whistle-blowing. For example, personal staff grievances such as bullying or harassment do not usually count as whistle-blowing. If something affects a staff member as an individual, or relates to an individual employment contract, this is likely a grievance.

When staff have a concern, they should consider whether it would be better to follow our staff grievance or complaints procedures.

Protect (formerly Public Concern at Work) has:

- [Further guidance](#) on the difference between a whistle-blowing concern and a grievance that staff may find useful if unsure
- A free and confidential [advice line](#)

4. Procedure for staff to raise a whistle-blowing concern

4.1 When to raise a concern

Staff should consider the examples in section 3 when deciding whether their concern is of a whistle-blowing nature. Consider whether the incident(s) was illegal, breached statutory or trust procedures, put people in danger or was an attempt to cover any such activity up.

4.2 Who to report to

Staff should report their initial concern to their line manager. In many cases, raising concerns with the immediate line manager is the most appropriate route for an employee. The line manager should inform the CEO of the disclosure and an appropriate course of action will be agreed.

If the concern is about the line manager, or the headteacher or CEO and it is believed they may be involved in the wrongdoing in some way, the staff member should report their concern to Chair of Trustees.

4.3 How to raise the concern

Concerns should be made in writing wherever possible. They should include names of those committing wrongdoing, dates, places and as much evidence and context as possible. Staff raising a concern should also include details of any personal interest in the matter.

5. Trust procedure for responding to a whistle-blowing concern

5.1 Investigating the concern

When a concern is received whether this is the line manager, headteacher, CEO or Chair of Trustees – referred to from here as the 'recipient' – they will:

- Meet with the person raising the concern within a reasonable time. The person raising the concern may be joined by a trade union or professional association representative.
- Get as much detail as possible about the concern at this meeting and record the information. If it becomes apparent the concern is not of a whistle-blowing nature, the recipient should handle the concern in line with the appropriate policy/procedure
- Reiterate, at this meeting, that they are protected from any unfair treatment or risk of dismissal as a result of raising the concern. If the concern is found to be malicious or vexatious, disciplinary action may be taken (see section 6 of this policy)
- Establish whether there is sufficient cause for concern to warrant further investigation. If there is:
 - The recipient should then arrange a further investigation into the matter, involving the CEO or Chair of Trustees, if appropriate. In some cases, they may need to bring in an external, independent body to investigate. In other cases, they may need to report the matter to the police.
 - The person who raised the concern should be informed of how the matter is being investigated and an estimated timeframe for when they will be informed of the next steps.

5.2 Outcome of the investigation

Once the investigation – whether this was just the initial investigation of the concern, or whether further investigation was needed – is complete, the investigating person(s) will prepare a report detailing the findings and confirming whether or not any wrongdoing has occurred. The report will include any recommendations and details on how the matter can be rectified, and whether or not a referral is required to an external organisation, such as the local authority or police.

They will inform the person who raised the concern of the outcome of the investigation, though certain details may need to be restricted due to confidentiality.

Beyond the immediate actions, the headteacher, trustees and other staff, if necessary, will review the relevant policies and procedures to prevent future occurrences of the same wrongdoing.

Whilst we cannot always guarantee the outcome sought, we will try to deal with concerns fairly and in an appropriate way.

6. Malicious or vexatious allegations

Staff are encouraged to raise concerns when they believe there to potentially be an issue. If an allegation is made in good faith, but the investigation finds no wrongdoing, there will be no disciplinary action against the member of staff who raised the concern.

If, however, an allegation is shown to be deliberately invented or malicious, the trust will consider whether any disciplinary action is appropriate against the person making the allegation.

7. Escalating concerns beyond the trust

The trust encourages staff to raise their concerns internally, in line with section 4 of this policy, but recognises that staff may feel the need to report concerns to an external body. A list of prescribed bodies to whom staff can raise concerns with is included [here](#).

The Protect advice line, linked to in section 3 of this policy, can also help staff when deciding whether to raise the concern to an external party.

8. Approval

This policy will be reviewed every year.

These procedures have been agreed by the board of trustees, who will approve them whenever reviewed.

9. Links with other policies

This policy links with our policies on:

- Staff grievance policy
- Complaints procedure
- Child protection policy

Raising Concerns outside the Trust

5.1 In certain circumstances it may be appropriate to raise concerns outside the trust to the appropriate ‘prescribed person’, which includes prescribed regulators. This should only be done where any disclosure of information that is made in the public interest and where you believe the information is substantially true, i.e. more than just suspicion. You are advised to discuss your concerns with a legal advisor, trade union or Public Concern at Work before reporting them outside the Trust.

A list of prescribed bodies to whom staff can raise concerns with is included [here](#).

5.2 As a last resort you may choose to raise your concern outside the school to someone other than a prescribed regulator, e.g. to the police or your MP. You should only do this if, in addition to the conditions above, they meet one of three preconditions.

Provided the disclosure is reasonable in all the circumstances and is not made for personal gain, the preconditions are that you:

- reasonably believed that you would be victimised if you raised the matter internally within the school; or
- reasonably believed that the matter would be ‘covered up’ and there is no prescribed regulator; or
- have already raised the matter internally or with a prescribed regulator.

5.3 It should be noted that wider disclosures (i.e. to the media) can only be protected where there is a justifiable cause for going wider and where the particular disclosure is reasonable. Disclosure to the media is only likely to be protected in exceptional circumstances. The school therefore encourages concerns to be raised initially using one of the methods described in section 3 of this Policy and suggests that you take advice before making any wider disclosure. Details of organisations that can provide advice are set out in paragraph 9 below.

Making a protected disclosure

6.1 This policy is intended to allow the internal investigation and resolution of any concerns raised. In accordance with the PIDA 1998, to make a ‘protected’ disclosure the whistleblower has to meet certain conditions:

A qualifying disclosure means any disclosure of information that, in the reasonable belief of the worker is made in the public interest. Therefore, while the employer can seek a declaration from the whistleblower that he or she is not knowingly making false allegations, disciplinary action is likely to be appropriate only where there is clear evidence that the reporting worker has misused the whistleblowing policy.

- Disclosure to a regulatory body will be protected where, in addition, the whistleblower honestly and reasonably believes that the information they provide and any allegation contained in it are substantially true.
- Disclosure to other external bodies will be protected if, in addition, making it is in all respects reasonable. ‘In all respects reasonable’ means, in effect:
 - o the disclosure is not made for personal gain; o the whistleblower reasonably believed that they would be victimised if they raised the matter internally;
 - o there is no relevant regulatory body; o the whistleblower reasonably believed that evidence was likely to be concealed or destroyed;
 - o the concern has already been raised with the employer and/or relevant regulatory body; and
 - o the concern is of an ‘exceptionally serious’ nature – which in a local government setting could include, say, the alleged abuse of children or vulnerable adults in an authority’s care.

6.2 This may be done orally or in writing. If you are writing, remember to give details of how you can be contacted. Anonymous disclosures present difficulties for effective investigation. Your identity will be kept strictly confidential if you so request, unless disclosure is required by law. However the Trust recognises that despite the dual safeguards of confidentiality and legal protection from recrimination that individuals may still feel unable to reveal their identity. In these situations individuals can report their concerns anonymously, but should be aware that these concerns carry less weight with the investigation teams and the disclosure may not be sufficiently detailed to provide a successful investigation.

6.3 Allegations that are malicious, or allegations made for personal gain, may result in action against the person making them. If an allegation is made in the public interest, but is not confirmed by an investigation, no action will be taken against the person who raised the concern.

6.4 It is preferable that a whistleblowing concern be raised as soon as there is reasonable suspicion. Employees are not expected to investigate the matter themselves or prove that their concern is well-founded.

6.5 The school recognises that the decision to report a concern can be difficult. If you report the concern in good faith, the school will not tolerate any harassment or victimisation against you. Any employee who is found to have victimised or harassed an employee who raised a concern will face disciplinary action.

6.6 Anyone who has made a protected disclosure will not suffer any detriment as a result of raising their concern unless it is later proved that they knew they were providing false information. In addition, whistleblowers are protected from suffering a detriment, bullying or harassment from another worker.

Examples that could amount to a detriment include (but are not limited to):

- a) failure to promote, if linked to the disclosure;
- b) denial of training;
- c) closer monitoring;
- d) ostracism;
- e) blocking access to resources;
- f) unrequested re-assignment or re-location;
- g) demotion;

- h) suspension;
- i) disciplinary sanction;
- j) bullying or harassment;
- k) victimisation;
- l) dismissal;
- m) failure to provide an appropriate reference; or
- n) failing to investigate a subsequent concern.

How will the trust respond to a protected disclosure?

7.1 The action taken by the trust will depend on the nature of the concern.

The matters raised may be investigated internally or externally;

- be referred to the Police;
- be referred to the external auditors (Crowe UK);
- form the subject of an independent inquiry; or
- be considered a service issue and referred to the service to respond by any combination of the above.

7.2 Feedback on the outcome of the concern will be given to the person raising the concern. This feedback may be limited due to legal obligations of confidentiality (i.e. if disciplinary action is taken against a school employee).

The person raising a concern should normally be told:

- a) how and by whom a concern will be handled;
- b) an estimate of how long an investigation will take;
- c) the outcome of the investigation (where appropriate);
- d) that if they believe they are suffering detriment as a result of raising the concern that they should report it;
- e) that he or she is entitled to independent advice.

What if I am dissatisfied with the trust's response?

8.1 This policy is intended to provide you with an avenue to raise concerns within the trust. However, if at the end of the process an employee of the trust, or any other person covered by the Act, is not satisfied with how a disclosure has been dealt with and wishes to pursue matters by means of a wider disclosure, the following points of contact are available to you:

- your local Council Member (if you live in the area of the borough);
- the Trust's external auditors (Crowe UK);
- relevant professional bodies or regulatory organisations;
- relevant inspection body;

- your solicitor; or
- the Police.

8.2 If you do decide to take the matter outside of the school, you need to ensure that you do not disclose confidential information and that you are 'protected' in accordance with the PIDA 1998 (as referenced in this Policy).

If you wish to raise a concern outside of the trust, you may raise it with an external body from the list of prescribed persons and bodies detailed in the 'Department for Business Innovation & Skills 'Blowing the Whistle to a Prescribed Person' document: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

You should seek your own advice if you are unsure about whether to raise the matter outside of the trust.

8.3 The trust processes any personal data collected during the whistleblowing process in accordance with its data protection policy.

Further details can be found in the Privacy Notice on the trust's website. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the whistleblowing procedure.