

Whistleblowing Policy	
Policy Ref:	HR 027
Status	
Purpose	To encourage staff to raise genuine concerns about malpractice at the earliest possible stage in the right way.
Committees	Trust Board, Finance business and audit sub committee
Other linked policies	
Issue date:	January 2023
Review Date	June 2023

### Statement of intent

**Victorious Academies Trust** is committed to open and honest communication and ensuring the highest possible standards in integrity – we will always treat whistleblowing as a serious matter.

In line with the Trust's commitment to openness, probity and accountability, members of staff are encouraged to report concerns. This policy will work to ensure that, if an employee sees or suspects that something is wrong, they will raise this with the school or Trust. This is known as "blowing the whistle" – a phrase that is used throughout this policy and should be viewed as a positive action of speaking up.

This policy seeks to ensure that any person suspecting malpractice knows how to raise concerns and what procedures are in place to deal with the concern.

Where this policy necessitates personal or special category data to be processed, it will be done so in accordance with the Trust's Data Protection Policy. This policy will not be confused with the procedure on dealing with harassment at work or the school's Grievance Policy and Disciplinary Policy and Procedure.

This policy will:

- Give confidence to members of staff when raising concerns about conduct or practice that is potentially illegal, corrupt, improper, unsafe or unethical, or which amounts to malpractice or is inconsistent with school standards and policies.
- Provide members of school staff with avenues to raise concerns.
- Ensure that members of staff receive a response to the concerns they have raised and feedback on any action taken.
- Offer assurance that members of staff are protected from reprisals or victimisation for whistleblowing action undertaken in good faith and within the meaning of the PIDA.

Under this policy, any of the following can raise a concern:

- Employees of the school
- Voluntary workers working with the school
- Trainees, such as student teachers

**Staff can report any concerns to the Chief Operations Officer who can advise on the nominated Trustee in connection with their concerns.**

Staff can find out more at:

- whistleblowing for employees, including a definition of whistleblowing [Whistleblowing for employees - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- school complaints and whistleblowing, including how ESFA handles complaints about academies [School complaints and whistleblowing - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- the whistleblowing charity Protect (formerly Public Concern at Work), which provides confidential independent advice about wrongdoing in the workplace [Protect \(formerly Public Concern at Work\) Speak up stop harm - Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

### Legal framework

1. This policy has due regard to all relevant legislation and guidance including, but not limited to, the following:
  - Public Interest Disclosure Act 1998
  - Employment Rights Act 1996
  - ESFA (2021) 'Academy trust handbook 2021'
  - DfE (2022) 'Keeping children safe in education 2022'
  - GOV.UK (2012) 'Whistleblowing for employees'
  - Sir Robert Francis (2015) 'Freedom to speak up report'
2. This policy operates in conjunction with the following Trust and school policies:
  - Disciplinary Policy and Procedure
  - Records Management Policy
  - Complaints Procedures Policy
  - Data Protection Policy

### The Public Interest Disclosure Act

3. The Public Interest Disclosure Act 1998 (PIDA) protects employees who "blow the whistle" where the employee reasonably believes that the disclosure falls within the remit of the prescribed person or body and that the information and any allegations are substantially true.
4. Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.
5. The **Headteacher/Principal** is the first point of contact for whistleblowing queries at each school. If the allegation is related to the **Headteacher/Principal**, the concern can be raised with the **Chief Executive Officer who will keep the Chair of Trustees informed of progress.**
6. The **Chief Executive Officer** is the first point of contact for whistleblowing allegations related to members of the Trust central team.
7. The **Chair of Trustees** is the first point of contact for whistleblowing allegations related to the Chief Executive Officer.
8. Any member of the school community or the general public is able to "blow the whistle"; however, the PIDA only protects employees.

### Definitions

9. **Whistleblowing:** Whistleblowing is when an employee reports suspected wrongdoing, or 'qualifying disclosures', at work to their employer.
10. **Qualifying disclosures:** As outlined by the PIDA, qualifying disclosures pertain to when any of the following takes place:
  - A criminal offence has been committed, is likely to be committed or is being committed
  - A person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
  - A miscarriage of justice has occurred, is occurring or is likely to occur
  - The health or safety of any individual has been, is being or is likely to be endangered
  - The environment has been, is being or is likely to be damaged
  - Information tending to show any matter falling within any of the preceding points has been, is being or is likely to be deliberately concealed

11. **In the public interests** means that an individual acted outside of their own personal interest – they acted for more than personal gain. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:
  - The number of people in the group whose interests the disclosure served
  - The nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed
  - The nature of the wrongdoing disclosed
  - The identity of the alleged wrongdoer
12. **Blacklisting** refers to an individual who is being refused work because they are viewed as a whistleblower.
13. **Grievances** involve someone filing a complaint because they personally have been mistreated in some way – the person making the complaint will have a direct interest in the outcome. It is important to understand the difference between raising a grievance and blowing the whistle.

#### Roles and responsibilities:

14. The **Trust Board** will be responsible for:
  - Establishing and agreeing the whistleblowing procedure.
  - Ensuring the agreed whistleblowing procedure is published on the Trust's website.
  - Monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
  - Ensuring all members of the school community have access to this policy.
  - Investigating, in liaison with the **Headteacher/Principal**, any concerns that are raised.
  - Ensuring this policy provides an open and transparent framework where members of the school community can raise their concerns.
  - Taking the necessary action against members of staff following an investigation into any alleged malpractice.
  - Ensuring that the minutes of the Trust Board include a record of the Trust's whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.
  - Appointing one Trustee and one member of staff to act as points of contact for staff members when reporting concerns.
15. The **Headteacher/ Principal** will be responsible for:
  - Ensuring all members of staff have read and understood this policy.
  - Receiving, investigating and responding to any concerns that have been raised by the school community.
  - Being the first point of contact regarding whistleblowing (**unless the whistleblowing is related to the Headteacher / Principal in which case this will be the Chief Executive Officer**).
16. Where the **Chief Executive Officer** receives any concerns raised about a **Headteacher/Principal**, **the Chair of Trustees will be kept informed of the whistleblowing and the progress of any associated discussions and investigations.**
17. All members of the Trust / school community will be responsible for:
  - Raising any concerns that meet the definitions of qualifying disclosures or in the public interests of this policy.
  - Being truthful and reasonable with any concerns that they have.
  - Not raising malicious or unfounded concerns.

#### Harassment and victimisation of staff

18. We recognise that the decision to report a concern can be a difficult one to take, not least because of the fear of reprisal from those responsible for the malpractice or from the Trust or school as a whole; however, the

Trust and schools within the Trust will not tolerate any such harassment or victimisation and will take appropriate action to protect staff who raise a concern in good faith.

19. Staff are protected in law by the PIDA, which gives employees protection from detriment and dismissal where they have made a protected disclosure, providing the legal requirements of the Act are satisfied, e.g. the disclosure was in the public interest.
20. Any member of staff who victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be dealt with under the Trust's Disciplinary Policy and Procedure.

### Non-employees

21. The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned. Irrespective of this, the Trust will not allow harassment, dismissal or exclusion for any non-employee who raises a genuine concern.
22. Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the Trust's Complaints Procedures Policy.
23. Trustees / Governors are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

### Good practice principles

24. The Trust will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure that whistleblowing procedures are fair, clear and consistent.
25. The Trust will implement a culture of change by ensuring the following principles are reflected in our ethos and values – there will be a culture:
  - Of safety across the Trust and in the schools.
  - Where people feel confident with raising concerns.
  - Free from bullying.
  - Of visible leadership.
  - Of valuing staff.
  - Of reflective practice.
26. By providing a clear procedure for mediating and resolving cases, as outlined below, the Trust will ensure that all cases are efficiently handled. This procedure includes:
  - How to raise and report concerns.
  - How investigations will be conducted.
  - How the Trust and schools will mediate and resolve disputes.
27. The Trust will implement measures to support good practice by ensuring adherence to the following principles:
  - Offering relevant training to staff
  - Providing the necessary support to staff
  - Providing support to staff who are seeking alternative employment
  - Being transparent
  - Being accountable
  - Conducting an external review of any concerns raised, where necessary
  - Undertaking regulatory action as required
28. We will ensure there are **particular support measures in place for vulnerable groups** by adhering to the following principles:





- There are grounds for a concern and that it is genuine.
  - The concern was raised in accordance with this policy.
42. During the initial interview, the **Headteacher/Principal (or Chief Executive Officer as appropriate)** will request the individual puts their concern in writing, if they have not already done so. The **Headteacher/Principal** will write a summary of the concern if the individual is unable to put it in writing.
43. The **Headteacher/Principal (or the Chief Executive Officer as appropriate)** will explain the following to anybody raising a concern:
- How they will communicate with the complainant throughout the process. It should be noted, the need for confidentiality may prevent the Trust and school giving the complainant specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern.
  - That the complainant's identity will be kept confidential from the alleged wrongdoer.
  - That the **Chief Executive Officer and Trustees** will do everything in its power to protect the complainant from discrimination.
  - That if the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the complainant.
44. If clear evidence is uncovered that the complainant's concern is malicious or unfounded, disciplinary action may be brought against them.
45. If an investigation is carried out, the whistleblower will be informed of the final outcome.
46. A record will be kept of the seriousness of the issues raised and the credibility of the concern. All records will be kept confidential and will be stored in line with the Trust's Records Management Policy.
47. It may be possible for the concern to be resolved by simply agreeing the necessary action or explaining procedures to the alleged wrongdoer; however, depending on the severity and nature of the concern, it may:
- Be investigated by management, an internal audit or through the disciplinary process.
  - Be referred to the police or an external auditor.
  - Form the subject of an independent inquiry.
48. If the investigating officer needs to talk to the whistleblower, they are permitted to be accompanied by a trade union representative, a professional association representative, a friend or a fellow member of staff not involved in the area of work that the concern relates to. This person will provide support only and will not be allowed to become involved in the proceedings.
49. A record will be made of the nature and outcome of the concern. The purpose of this is to ensure that a central record is kept which can be cross-referenced with other complaints to monitor any patterns of concern across the Trust and schools and to assist in monitoring the procedure.
50. The whistleblower will be informed of the results of the investigation, and any action that is proposed will be subject to third party rights. Where action is not taken, the individual will be given an explanation.

## What the Trust asks of you

51. The purpose of this policy is to enable individuals to raise concerns in confidence, without any fear of reprisal; therefore, it is imperative that whistleblowers:
- Do not talk about the concern outside the school unless it is to report the concern through the proper external channels, e.g. the LA..
  - Declare any personal interest in the matter, as the policy is designed to be used in the interest of the public and not for individual matters.

### Appeal process

52. If no action is to be taken and/or the individual is not satisfied with the way the matter has been handled, they can make a complaint under the Trust's **Complaints Procedure Policy**.

### Unfair treatment

53. An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing. Further information can be sought from the Citizen's Advice Bureau, the whistleblowing charity Protect, or from an individual's trade union.

54. Any claims of unfair dismissal needs be made within three months of the investigation ending.

### Monitoring and review

55. The **Trust Board** will review this policy **annually**, ensuring that all procedures are up-to-date.

56. Any changes made to this policy will be communicated to all members of staff.

End