

Whistleblowing Policy

May 2019



**ORCHARD ACADEMY
TRUST**

Whistleblowing

Introduction

Orchard Academy Trust (may be referred to hereafter as the Trust which includes all schools in the Trust) is committed to the highest possible standards of openness, probity and accountability. We encourage trustees, governors, employees, school employees, former school employees, agency staff and contractors engaged by the school and others (cleaners, builders etc.) working with us, to raise any concerns about any aspect of our work in the school, to come forward and voice concerns. In some instances, concerns may need to be expressed on a confidential basis. This procedure encourages employees to raise serious concerns, without fear of reprisal or victimisation, internally within the schools, rather than over-looking a problem or raising the matter outside.

Complaints that count as Whistleblowing

- a criminal offence, for example fraud;
- someone's health and safety is in danger;
- risk or actual damage to the environment;
- a miscarriage of justice;
- the company is breaking the law, for example, does not have the right insurance;
- you believe someone is covering up wrong doing.

Complaints that do not count as whistleblowing

Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest.

Other Complaints Procedures

This procedure is separate from the complaints procedures, grievance procedures and other statutory reporting procedures. Any investigation into allegations of potential malpractice under this procedure will not influence or be influenced by any disciplinary or redundancy procedures that already affects an individual.

Aim and Scope

This procedure aims to ensure individuals are:

- encouraged to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provided with avenues to raise concerns and receive feedback on any action taken;
- given a response to their concerns and are aware of how to pursue them if not satisfied;
- reassured that they will be protected from reprisals or victimisation if they have reasonable belief any disclosure has been made in good faith.

There are existing procedures in place to enable individuals to lodge a grievance relating to their own employment including issues relating to harassment and bullying. This procedure is intended to cover concerns that fall outside the scope of other procedures.

These include:

- conduct which is, has been, or is likely to be an offence or breach of law;
- conduct that has occurred is occurring or is likely to occur, which results in the School failing to comply with a legal obligation. For example unauthorised use of public funds, possible fraud and corruption, sexual or physical abuse of others, or other unethical conduct, discrimination of any kind and waste/frivolous expenditure;
- disclosures related to past, current or likely miscarriages of justice past or, current or likely health and safety risks, including risks to the public as well as other employees;

- past, current or likely damage to the environment;
- failure to have due regard to the need to prevent people from being drawn into terrorism (the 'Prevent Duty');
- the deliberate concealment of information relating to concerns listed above.

Concerns about any aspect of service provision or the conduct of employees of the School/Trust or others acting on behalf of the School/Trust, can be reported under the Whistleblowing Procedure. This may be about something that you:

- feel uncomfortable about in terms of known standards, your experience or the standards you believe the School/Trust subscribes to, or
- is against the School's/Trust's Standing Orders and Policies or
- falls below established standards of practice, or
- amounts to improper conduct.

Concerns that Employees have may be raised individually or collectively. If collective concerns are raised staff should be prepared to give their own account during any investigation, should this be required.

The School's Complaints Procedure should be used to raise any issues, concerns or complaints of a health and safety nature and which are not confidential.

Confidentiality

All concerns raised will be treated in confidence and every effort will be made not to reveal the identity of a Whistleblower. However, in certain cases, it may not be possible to maintain confidentiality if a Whistleblower is required to come forward as a witness.

Anonymous Allegations

Whenever possible a Whistleblower should put their name to an allegation as concerns expressed anonymously are much less powerful than those that are attributed to a named individual. However, anonymous allegations will be considered and investigated at the school's discretion. In exercising the discretion, the factors to be taken into account would include:

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

Untrue Allegations

If a Whistleblower makes an allegation in good faith that is not subsequently confirmed by an investigation, no action will be taken. Disciplinary action will only be taken against individuals who knowingly make false, malicious or vexatious allegations.

How to Raise a Concern

Any concerns can be raised verbally or in writing. A concern raised in writing should:

- set out the background and history of the concern, giving names, dates and places where possible;
- give the reason why you are particularly concerned about the situation;
- for clarity it would be helpful for the employee to state that they wish their concerns to be addressed under the whistleblowing procedure.

The earlier a concern is raised the easier it is to take action. A Whistleblower is not expected to prove beyond doubt the truth of an allegation, but will need to demonstrate to the person contacted that there

are sufficient grounds for your concern. Further investigation may be hampered if there is only limited evidence to support the concern raised. A trade union or professional association may raise a matter on behalf of an employee.

Step One – Raising a Concern

Whenever possible a Whistleblower should raise a concern with the Head of School or Executive Head, or in their absence, a member of the Senior Leadership Team (SLT), as soon as any suspected malpractice becomes apparent. If this is not appropriate, for example where it is suspected that the Head of School/Executive Head/SLT already knows about the malpractice and appears to be ‘turning a blind eye’ or where it is suspected that the Head of School/Executive Head/SLT may be involved, the Whistleblower should report their concerns to the Chair of Governors/Trust. Should the Head of School/Executive Head have concerns – these should be raised with the Chair of Governors/Trust in the first instance. Alternatively, the matter may be raised with one of the following if for whatever reason the Whistleblower is unable to raise their concerns with one of the above:

- Matt Dunkley, Corporate Director – Children, Young People and Education, Kent County Council, Sessions House, County Road, Maidstone, ME14 1XQ
- Public concern at Work 020 7404 6609 www.pcaw.org.uk
- Department for Education 0370 000 2288 www.gov.uk/contact-dfe
- Ofsted 0300 123 3155 whistleblowing@ofsted.gov.uk
- Local Government Ombudsman 0300 061 0614 www.lgo.org.uk
- Office of Qualifications and Examinations Regulation 0300 303 3344 Public.Enquiries@ofqual.gov.uk A solicitor
- The police

For up to date contact details of such individuals refer to:

www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies;

KCC also has an **Independent Helpline:** 03000 414 500 or by emailing: internalaudit@kent.gov.uk

Step Two - How the Trust will respond

The action taken will depend on the nature of the concern.

The matters raised may:

- be investigated internally by the Head of School/Executive Head or commissioning officer;
- be referred to the Police or
- be referred to the External Auditor.

In order to protect individuals 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 which fall within the scope of specific procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Whistleblowers will be written to within ten working days:

- acknowledging that the concern has been received;
- indicating how the Trust proposes to deal with the matter;

- giving an estimate of how long it will take to provide a final response;
- informing if any initial enquiries have been made;
- indicate whether further investigations will be sought from the employee and the arrangements for obtaining this where known.

Contact

The amount of contact between those considering the issues and the Whistleblower 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.

In instances where an investigation is prolonged or referral to an external agency takes place – arrangements will be made to provide the Employee with situational updates as far as is practicable.

On occasion the person considering the complaint may determine that it is not appropriate for further action to be taken. This may include where:

- There is no evidence that malpractice has occurred;
- The matter is/has been the subject of internal proceedings under another school policy;
- The matter is/has been the subject of external legal proceedings/been referred to another external agency/
- A false and malicious or vexatious complaint has been made.

Attending Meetings

When any meeting is arranged the Whistleblower has the right 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.

Support

The Trust will take steps to minimise any difficulties you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Trust will advise or arrange for you to have advice about the procedure.

The Trust will not tolerate harassment or victimisation (including informal pressures) and will take action to protect individuals who raise a concern in good faith. The Trust accepts that Whistleblowers need to be assured that concerns will be properly addressed and, subject to legal constraints, will provide information about the outcomes of any investigations.

How the Matter Can Be Taken Further

This procedure is intended to provide individuals with an avenue to raise concerns within the Trust. If a Whistleblower is not satisfied, and feels it is right to take the matter further, they should discuss their concerns with a legal advisor, professional association, trade union or PCAW before reporting them outside the School. However, other possible contact points are listed on page 4

If a matter is taken outside the Trust a Whistleblower must take all reasonable steps to ensure that confidential or privileged information is not disclosed. If in doubt, check with the Trust.

Public Interest Disclosure

Public Interest Disclosure Act (1998), gives employees two safeguards in respect of disclosures of information:

- An employee is entitled not to be subjected to any detriment by virtue of having made a protected disclosure.
- The dismissal of any School employee directly due to the individual having made such a disclosure will automatically be unfair

Disciplinary action may be taken against individuals who knowingly make false, malicious and/or vexatious allegations.

Should an employee commit a criminal offence in raising a concern (e.g. accepting a bribe or an act of corruption) – protection from detriment may be lost and the Employee may be subject to the Trust's disciplinary procedures.

Reviews and Operations of this Policy

The Trustees have overall responsibility for the operation of this policy. This policy has to be formally adopted by the Trustees and will be reviewed annually and at any other time if changes are required to comply with changes in legislation, regulation or national or KCC advice. Any amendments will require the approval of the full Trust.

Date policy adopted: May 2019

Date of Review: May 2021

Adopted by: The Trust Board