



Whistleblowing Policy

Policy Code:	HR7
Policy Start Date:	November 2023
Policy Review Date:	November 2024

Statement of Intent

The Community Inclusive Trust (CIT) 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 something is wrong, they will raise this with the 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 any member of staff who suspects 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 should not be confused with the procedure on dealing with harassment at work or the Trust's Grievance Policy and Disciplinary Policy and Procedure.

This policy covers all employees, consultants, contractors, volunteers including Trust Members, Trustees, Local School Board Governors, casual workers and agency workers.

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 Trust standards and policies.
- Provide members of staff with avenues to raise concerns.
- Ensure 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.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

1. Legal Framework

1.1. 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 Academy trust handbook
- DfE (2023) 'Keeping children safe in education
- GOV.UK (2012) 'Whistleblowing for employees'
- Sir Robert Francis (2015) 'Freedom to speak up report'

1.2. This policy operates in conjunction with the following school policies:

- Disciplinary Policy
- Records Management Policy
- Complaints Policy
- Data Protection Policy

2. The Public Interest Disclosure Act

2.1. The Public Interest Disclosure Act 1998 (PIDA) protects employees who “blow the whistle” where the employee reasonably believes the disclosure falls within the remit of the prescribed person or body and the information and any allegations are substantially true. Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.

2.2. Any member of the school community or the general public is able to “blow the whistle”; however, the PIDA only protects employees. Section 6 includes further details on how whistleblowing affects non-employees.

3. Definitions

3.1. **Whistleblowing** is when an employee reports suspected wrongdoing, or 'qualifying disclosures', at work to their employer. Examples of whistleblowing include raising concerns regarding:

- an employer breaking the law or breaching contract.
- financial wrongdoing such as fraud.
- the health and safety of pupils, staff or the general public being put at risk.
- ethical concerns such as the conduct of staff or conflicts of interest.
- There are times when bullying could be addressed under this policy, see Appendix B for more information.

3.2. 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, including safeguarding regulations.
- 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.

3.3. **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.

3.4. **Blacklisting** refers to an individual who is being refused work because they are viewed as a whistleblower.

3.5. **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.

4. **Roles, Responsibilities and Implementation**

4.1. The People Committee has overall responsibility for:

- Approving this policy.
- Ensuring the agreed whistleblowing procedure is published on the Trust's website.
- The effective operation of this policy.
- Ensuring compliance with the relevant statutory framework.
- Reviewing the effectiveness of actions taken in response to concerns raised under this policy.
- Delegating day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Director of HR.

4.2. The Director of HR and Headteachers 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 school staff.
- Being the first point of contact regarding whistleblowing.

4.3. Employees will be responsible for:

- Raising any concerns that meet the definitions in section 3 of this policy.
- Being truthful and reasonable with any concerns they have.
- Not raising malicious or unfounded concerns.

5. Harassment and Victimisation of Staff

- 5.1. The Trust recognises 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 school or Trust as a whole; however, 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.
- 5.2. 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.
- 5.3. 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.

6. Non-Employees

- 6.1. 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.
- 6.2. Where an individual feels they have been unfairly treated following blowing the whistle, they should make a complaint under the Trust's Complaints Policy.
- 6.3. Local School Board and Trust Board members are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

7. Good Practice Principles

- 7.1. The Trust will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure whistleblowing procedures are fair, clear and consistent.
- 7.2. 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 in the Trust.
 - Where people feel confident with raising concerns.
 - Free from bullying.
 - Of visible leadership.
 - Of valuing staff.
 - Of reflective practice.
- 7.3. By providing a clear procedure for mediating and resolving cases, as outlined in section 8, the Trust will ensure all cases are efficiently handled. This procedure includes:
 - How to raise and report concerns.
 - How investigations will be conducted.
 - How the Trust will mediate and resolve disputes.

7.4. 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.

7.5. We will ensure there are particular support measures in place for vulnerable groups by adhering to the following principles:

- Ensuring non-permanent staff are taught, and receive training on, the same principles as permanent staff.
- Ensuring trainees are subject to all the safeguarding and whistleblowing principles.
- Ensuring staff from ethnic minorities are supported, as they may feel particularly vulnerable when raising concerns.
- Ensuring staff are empowered and protected, enabling them to raise concerns freely.

8. Procedure

8.1. When raising concerns, individuals should express them to the Director of HR, in writing where possible. If an individual is raising a concern about the Director of HR, they should direct this to the CEO.

8.2. If an individual is raising concerns about the CEO they should contact to the Director of HR or Chair of the Trust Board.

8.3. Contact details for the Director of HR, CEO and the Clerk to the Trust Board can be found in section 14.

8.4. Members and Trustees should raise any whistleblowing concerns directly with the Chair of the Trust Board. Local School Board Governors should raise matters with the Chair of their LSB who will then contact the Chair of the Trust Board. Any concerns with raising the matter with the Chair of the Trust should be raised with the Vice Chair of the Trust.

8.5. When individuals raise their concern, they will include the following information as far as possible:

- The background and history of the concern.
- Any relevant names, dates and places.
- The reasons for the concern.

8.6. The Trust encourages individuals to let their identity be known when they raise concerns, as anonymous concerns can be challenging to investigate.

8.7. Individuals who would like to seek professional and confidential advice should contact Protect, a registered charity that advises on whistleblowing queries. The

Protect website can be accessed here (www.protect-advice.org.uk), or they can be contacted on 020 3117 2520.

- 8.8. Once an individual has raised a concern, the Trust will be responsible for investigating it.
- 8.9. If any employee feels unable to make a disclosure directly to their employer there are other prescribed bodies that can be approached. Dependent on the nature of the disclosure the following are examples of prescribed bodies relating to schools and young people:
 - Ofsted
 - Children's Commissioner for England
 - NSPCC
 - Secretary of State for Education
 - Education and Skills Funding Agency (ESFA)
 - A legal advisor
 - A Member of Parliament
- 8.10. This is by no means an exhaustive list and further recourse to the appropriate body can be found via this link:
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>
- 8.11. If a member of staff feels they should report a concern to the ESFA, they should use the online contact form: <https://www.gov.uk/guidance/how-esfa-handles-whistleblowing-disclosures#how-to-make-a-disclosure-to-esfa>
- 8.12. If a member of staff feels like they are unable to raise a safeguarding-related concern with the Trust, or feels that their genuine concerns are not being addressed, they are able to contact the NSPCC Whistleblowing Helpline on 0800 028 0285 or the LADO.
- 8.13. The Trust, or the appropriate external agency, will acknowledge receipt of a disclosure but, unless additional information is required, will not contact or engage in dialogue with the whistleblower, as this may undermine the legitimacy of the investigation outcome.

9. Next Steps

- 9.1. The Director of HR will contact the individual within 5 working days of the initial contact to confirm that the concern has been received, as well as to indicate proposals for dealing with the matter.
- 9.2. The initial stage will be an interview with the whistleblower, and then an assessment of further action will be discussed. During this initial stage, the Director of HR will establish if:
 - There are grounds for a concern and that it is genuine.
 - The concern was raised in accordance with this policy.
- 9.3. During the initial interview, the Director of HR will request the individual puts their concern in writing, if they have not already done so. The Director of HR will write a summary of the concern if the individual is unable to put it in writing.

- 9.4. The Director of HR 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 giving the complainant specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern.
 - The complainant's identity will be kept confidential from the alleged wrongdoer.
 - The Trust will do everything in its power to protect the complainant from discrimination.
 - If the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the complainant.
- 9.5. If clear evidence is uncovered that the complainant's concern is malicious disciplinary action may be brought against them.
- 9.6. If an investigation is carried out, the whistleblower will be informed of the final outcome.
- 9.7. A record will be kept of the seriousness of the issues raised and the credibility of the concern.
- 9.8. 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.
- 9.9. If the investigating officer needs to talk to the whistleblower, the whistleblower is 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.
- 9.10. A record will be made of the nature and outcome of the concern. The purpose of this is to ensure a central record is kept which can be cross-referenced with other complaints to monitor any patterns of concern across the Trust and to assist in monitoring the procedure.
- 9.11. 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.

10. What the Trust asks of Whistleblowers

- 10.1. 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 Trust unless it is to report the concern through the proper external channels, e.g. the LA or Ofsted.

- 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.

11. Appeal Process

- 11.1. 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 Policy.

12. Unfair Treatment

- 12.1. An individual can take a case to an employment tribunal if they feel 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.
- 12.2. Any claims of unfair dismissal needs be made within three months of the investigation ending.

13. Monitoring and Review

- 13.1. The People Committee will review this policy annually, ensuring all procedures are up to date – the next review date for this policy is November 2024.
- 13.2. Any changes made to this policy will be communicated to all members of staff.

14. Contacts

- Director of HR, Stephen Scott, 03300 585520, stephen.scott@citacademies.co.uk
- Clerk to the Trust Board, Ana Hendrickson, 01775 724080, ana.hendrickson@citacademies.co.uk
- Chief Executive Officer, Peter Bell, peter.bell@citacademies.co.uk

Appendix A – from Protect (<https://protect-advice.org.uk/what-is-whistleblowing/>)

What is the difference between whistleblowing and raising a grievance?

This can be a really tricky distinction. If you are unsure whether your concerns are best raised as whistleblowing concerns or as grievances, have a look at the differences between the two processes, outlined below:

Whistleblowing	Grievances
<ul style="list-style-type: none"> • Risk to others – whistleblowing is about raising concerns relating to wrongdoing risk or malpractice that you witness in the workplace. 	<ul style="list-style-type: none"> • Risk to self – grievances typically relate to how you, specifically, are being treated rather than relating to the treatment of others.
<ul style="list-style-type: none"> • Public interest – whistleblowing concerns should be in the public interest, and unlike grievances, the concerns may not even affect you. They should, in any case, have wider implications for other workers or the public. 	<ul style="list-style-type: none"> • Types of issues – grievances may be raised about various issues, including: things you are asked to do as part of your job; breaches by your employer of your employment rights / your contract of employment, or the way you are personally being treated at work.
<ul style="list-style-type: none"> • Process – there is no set process for investigating whistleblowing concerns. There is also no right to be accompanied to a meeting with your employer to discuss your concerns. 	<ul style="list-style-type: none"> • Process – the independent public body, ACAS, has set out <u>Codes of Practice</u> in relation to discipline and grievance procedures. You can find more information about how to raise a grievance on the <u>ACAS website</u>.
<ul style="list-style-type: none"> • Confidentiality – your employer should respect your wish for confidentiality. 	<ul style="list-style-type: none"> • Support – you have the right to be accompanied at a grievance hearing if the complaint is about your employer breaching a term of your employment contract.
<ul style="list-style-type: none"> • Feedback – you may never know the outcome of a whistleblowing concern. For example, if your employer investigates the behaviour of another individual and disciplines them as a result, that would 	<ul style="list-style-type: none"> • Outcome – grievances result in a legal determination (decision) on the issue that you raise. The ACAS Codes provide for employees to be given the outcome of their grievance e.g. an apology, a

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<p>be confidential information between the employer and that other individual.</p>	<p>payment due or a change to the working practices.</p>
<ul style="list-style-type: none">• Appeal – there is no general right to appeal if you are unhappy with how your employer deals with your whistleblowing concerns. You may, however, consider escalating your concerns at this stage (it is worth checking your employer’s whistleblowing policy, if they have one, before doing so).	<ul style="list-style-type: none">• Appeal – you should be given the opportunity to appeal should you feel unsatisfied with the outcome.

Appendix B – from Protect (<https://protect-advice.org.uk/what-is-whistleblowing/>)

When does bullying become a whistleblowing concern?

Bullying is a very difficult matter to tackle. If you are being bullied yourself, you should raise this as a grievance.

However, there can be instances when bullying may become a whistleblowing matter and there are some factors which may indicate this:

- How many people are affected? If the bullying affects the whole team (or a large number of employees), this might suggest a bullying culture and it may be more appropriate to use the whistleblowing process (check your employer's policy says on bullying).
- What is the impact of the bullying? Does the bullying culture have a wider impact on the work you deliver? As an example, a bullying culture within a hospital may impact the quality of care provided to patients if the bullying culture is affecting a substantial number of the team and is resulting in high numbers of work-related stress and sickness.
- Who is instigating the bullying? If it is a senior member of staff, then it is more likely that the concern should be raised as a whistleblowing concern.
- How serious is the bullying? Is the bullying a one-off isolated incident, or is it a series of events which may suggest a deliberate campaign of bullying? If the latter, then this suggests intentional wrongdoing.

However, from an employer's perspective, even when an individual says that there is a bullying culture in their team, if no one else comes forward and if there is no record of grievances that have previously been filed about the matter, then this can make it difficult for your employer to investigate and act. It is important that your colleagues who are also affected should be willing to participate in any subsequent investigation, otherwise it may be more effective to raise this as a collective grievance or by enforcing your own rights in the workplace by seeking the advice of a trade union or from ACAS.