



# The Sutton Academy

## Whistleblowing Policy & Procedure

Status	<b>Statutory</b>
Responsible Governors' Committee	<b>Finance &amp; HR / GB</b>
Date last approved by GB	<b>28/01/2016</b>
Responsible Person	<b>Mrs J Tallant</b>
To Review Date	<b>January 2017</b>
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## 1. Purpose

The purpose of this policy is to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the Academy.

## 2. Introduction

Members of staff are often the first to realise that there may be something seriously wrong within the Academy. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Academy. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. This document makes it clear that concerns may be reported without fear of victimisation, subsequent discrimination or disadvantage.

The Whistleblowing Procedure is intended to encourage and enable staff and governors to raise genuine concerns about malpractice at the earliest practicable stage rather than wait for proof. Malpractice within the Academy is taken very seriously.

This procedure is intended to provide safeguards to enable members of staff to raise concerns about malpractice in connection with the Academy. The aim is to provide a rapid mechanism under which genuine concerns can be raised internally, and, if necessary, externally without fear of adverse repercussions to the individual. It is also intended to promote throughout the Academy a culture of openness and a shared sense of integrity by inviting all employees to act responsibly in order to uphold the reputation of the Academy and maintain public confidence.

The procedure applies to all staff, governors and those contractors working for the Academy. It also covers suppliers and those providing services to the Academy. The procedure supplements the Academy's Complaints policy, Grievance Policy, Safeguarding Policy.

Staff have a duty of confidentiality and loyalty to their employer and are encouraged to utilise the academy's internal Whistleblowing procedure as the channel to process to raise genuine and legitimate concerns about serious incidents of misconduct or malpractice, before taking their concerns externally.

There are existing procedures within the Academy to enable individuals to lodge a grievance or a complaint. The Whistleblowing Procedure is intended to cover major concerns that fall outside the scope of other procedures. The types of matters regarded as "malpractice" for the purposes of this procedure are as follows:-

- possible fraud and corruption
- the unauthorised use of Academy funds
- failure to comply with legal or regularity obligation
- failure to comply with Codes of Practice
- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to students, the public as well as other colleagues
- damage to the environment
- attempts to conceal any of the above

- other unethical conduct.

### **3. Definition**

Whistleblowing inside the work place is the reporting by workers or ex-workers, of wrong doing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, Governors or by fellow employees. Workers may include, for example, contractors and agency workers.

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 Academy or colleagues to protect themselves against false and malicious accusations. A Whistle blowing procedure is about the ways in which concerns about malpractice may properly be raised within and if necessary outside the Academy.

### **4. Legislation**

The Public Interest Disclosure Act 1998 is designed to protect 'whistle blowers' from detriment and unfair dismissal. The procedure applies to disclosure by an individual ("the Discloser") who is an employee, a contract worker, or a self-employed consultant employed or any other person connected, and who has grounds to believe that malpractice has occurred, is occurring or is likely to occur in connection with the Academy (whether on the part of another employee, a member of the Governing Body, or any other person or persons).

### **5. Objectives/Principles Supporting the Procedure**

1. Create an ethical, open culture:
  - Write, publish and communicate a code of conduct and ethics.
2. Establish safe routes for communications of concerns:
  - Appoint individuals or a group outside the normal line management to receive complaints of irregularities or other concerns.
3. Protect the whistle blower:
  - Make it clear that the Academy will support and not discriminate against concerned employees provided any claim is made in good faith.
4. Establish a fair and impartial investigative procedure:
  - Make sure that the Academy responds to the concern by focusing on the problem, rather than denigrating the messenger.
5. Remind staff of the duty of confidentiality:
  - The duty of fidelity 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 Academy fails to properly consider or deal with the issue.
6. Safeguard against abuse of the procedure:
  - Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.
7. Uphold the right to disclose a concern:
  - The individual member of staff has the right to disclose a concern/issue if the Academy does not deal with the matter.
8. Involve governors and staff in developing the procedure:
  - To be effective there should be a sense of organisational ownership of a whistle blowing procedure.

## 9. Review:

- Ensure there is a review mechanism using the comments and experience of those who may have had reason to invoke the whistle blowing procedure.

## 6. The Procedure

- 6.1 All parties need to agree that the issue raised will be kept confidential while the procedure is being used.
- 6.2 The Representor (the person raising the concern) should:
- i Raise their concern with their line manager, the Principal or the Chief Financial Officer. Wherever possible, this should be in writing, but if this is not practicable it may be done orally. The Representor has the right to have the matter treated confidentially.
  - ii Once it has been established that the concern is genuine and that it is appropriate to use the Whistle Blowing procedure, the Principal (Assessor) should be contacted.
  - iii Should it be alleged that the Principal is involved in the alleged malpractice, the Chair of Governors should be contacted to act as Assessor.
  - iv If the Representor feels unable to raise their concern with their line manager, the Principal or the Chief Financial Officer in the first instance, they may contact the Clerk to the Governors directly. The clerk will then recommend another governor to undertake the Assessor's role. If this occurs the Representor will be asked to justify why they feel unable to raise the concern with their line manager, the Principal or the Chief Financial Officer.
- 6.3 The Assessor should:
- i interview the Representor within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury;
  - ii obtain as much information as possible from the Representor about the grounds for the belief of malpractice;
  - iii consult with the Representor about further steps which could be taken;
  - iv advise the Representor of the appropriate route if the matter does not fall under the Academy's Whistle blowing Procedure;
  - v report all matters raised under this procedure to the Governing Body.
- 6.4 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 Academy staff to take notes.
- 6.5 Within ten working days of the interview, the Assessor will recommend one or more of the following:
- i the matter be investigated internally by the Academy;
  - ii the matter be investigated by the external auditors appointed by the Academy;
  - iii the matter be reported to the Department for Education
  - iv the matter be reported to the Police;
  - v the route for the member of staff to pursue the matter if it does not fall within this procedure; or
  - vi that no further action is taken by the Academy.

- 6.6 The grounds on which no further action is taken include:
- i the Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice within the meaning of this procedure has occurred, is occurring or is likely to occur;
  - ii the Assessor is satisfied that the Representor is not acting in good faith;
  - iii the matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;
  - iv 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 or other public authority.
- 6.7 Should it be alleged that the Principal is involved in the alleged malpractice; the Assessor's recommendation will be made to the Chair of Governors.
- 6.8 The recipient of the recommendation (Principal or Chair of Governors) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Body.
- 6.9 The Representor's identity 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:
- i where the Assessor is under a legal obligation to do so;
  - ii where the information is already in the public domain;
  - iii on a strictly confidential basis to a professionally qualified lawyer for the purpose of obtaining legal advice
  - iv where it is essential that the Representor provides evidence at a disciplinary hearing or other proceedings.
- 6.10 The conclusion of any agreed investigation will be reported by the Assessor to the Representor within twenty eight days.
- 6.11 All responses to the Representor will be made in writing and sent to the Representor's home address.
- 6.12 If the Representor has not had a response within the above time limits, they may appeal to the Academy's external auditors, but will inform the Assessor before doing so.
- 6.13 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.
- 6.14 The Academy will ensure the Representor is protected from any form of victimisation or discrimination.

## **7. Malicious Accusations**

If an allegation is made in good faith, but it is not substantiated, no disciplinary action will be taken against the person raising the concern. If, however, an allegation is made frivolously, maliciously or for personal gain, the Academy will investigate this under the Disciplinary Procedure.

## **8. External Sources**

8.1 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:

- i. Department for Education
- ii. Member of Parliament
- iii. Health and Safety Executive.
- iv. Police
- v. Trade union
- vi. Education Funding Agency
- vii. relevant professional body or regulatory organisation
- viii. HM Revenue & Customs

8.2 If the matter is taken outside the Academy, individuals should ensure that they do not disclose confidential information.