

Whistleblowing policy



Key points and summary

High quality staff are essential to the success of every school. The Harrow academies intend to be outstanding employers, recruiting and developing the best staff for the benefit of students.

As outstanding employers the academies require HR policies that are:

- Compliant with latest law / regulations and case-law
- Fit for purpose for an academy
- Fair to the employer and employee
- Clear and easily understood

These policies will be reviewed annually.

Detailed support documentation, including procedures and template forms / letters accompany these policies.

The Academy Trust is the employer of staff at an academy, with the Governing Body having the responsibility for the leadership and management of the academy. Ensuring appropriate policies are in place and are part of that responsibility.

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Definitions

Throughout the following policies, these terms have the following meanings:

Child Protection Officer	The Senior Leader who is designated to take lead responsibility for dealing with child protection issues
Head of Operations	The member of staff with responsibility for support services, including HR
Employee / Member of staff	Any individual employed by the Academy Trust
Headteacher	The Headteacher of the academy (referred to as the Principal in the Articles of Association of the Academy Trust)
HR Advisor	The individual or organisation providing support to the Manager, Senior Leader, Headteacher or Governing Body
Manager	The Manager of an employee
Senior Leader	Any member of the Leadership Group, as defined by the School Teachers' Pay and Conditions Document, or the Head of Operations in cases involving support staff. Senior Leaders will only be permitted to issue formal warnings if they have been appropriately trained for that task and have been given delegated authority from the Headteacher specifically to issue such warnings.
Support staff/ Associate Staff	Those staff employed by the Academy whose terms and conditions are covered by the National Joint Council for Local Government Services condition of service. (the "Green Book")

1. Roles and Accountabilities

The Governing Body is accountable for all policies of the Academy Trust. It will annually:

1. Approve the staffing establishment for the academy
2. Approve the HR policies for the academy
3. Approve the delegations for HR functions

The Headteacher is responsible for the implementation of all policies of the Academy Trust.

All employees of the Academy Trust are subject to the HR policies.

All employees, governors, contractors, volunteers and supply staff are subject to the expectations set out in the Code of Conduct.

The Headteacher will ensure that:

- these policies are available to staff electronically
- new staff are made aware of the policies as part of their induction
- any individual who is subject to the formal stages of any policy will receive a copy of that policy within the papers for the first formal meeting under the procedures of the relevant policy

Common Principles

All employment policies within this document are non-contractual.

The following principles apply to all policies:

- **Trade Union Officials:** All staff are equally subject to the policies. Where an employee is an elected traded union representative, wherever possible the circumstances of the case will be discussed with the relevant professional trade union officer before any formal action is taken, such discussion to take place without undue delay. For the avoidance of doubt, suspension is not a formal action.
- **Confidentiality:** All employees must treat as confidential any information relating to a case being conducted under any of these policies. The employee and anyone accompanying the employee (including witnesses) must not make electronic recordings of any meetings or hearings conducted under any of these policies. Failure to observe confidentiality could be a reason for disciplinary action.
- **Probation:** All employees who are within their probationary period shall be managed in accordance with the conditions of their contract and in accordance with the Probation policy.
- **Equalities:** The Academy Trust is an equal opportunity employer and will not discriminate against staff on the basis of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. We will take appropriate steps to accommodate the requirements of different religions, cultures and domestic responsibilities and ensure that our policies are operated and monitored in accordance with Equalities legislation.
- **Investigative role of the Headteacher:** The Headteacher may delegate their investigate role under any policy to another Senior Leader where this is considered appropriate and is in accordance with the Scheme of Delegation of the Academy Trust. An external investigating officer may be appointed if deemed appropriate in the circumstances.
- **Formal meetings:** The following procedural expectations apply to all formal meetings between an employee and Senior Leader / Headteacher / Governing Body panel under the Disciplinary and Sickness Absence policies:
 - The employee will be given at least ten working days notice of the meeting; the meeting may be postponed for up to five working days in certain situations (see 'Right to Postpone' in this section)
 - The employee will be provided with written information relating to the reason for and purpose of the meeting, a copy of the relevant HR policy that the meeting is being held within, copies of any documentation that will be considered, and names of any witnesses being called by the Academy
 - At least two working days before the meeting, the employee will provide copies of any papers that they will refer to and the names of any witnesses that they will call
 - The employee will be able to be accompanied by a Trade Union representative or a workplace colleague
 - The meeting will be chaired by someone who has not had previous involvement in the specific case (a Senior Leader, Headteacher, or Governor as appropriate), and they may be supported by the HR Advisor. If the Headteacher is the employee who is subject to the hearing, the Academy's case will be brought by the Chair of the Governing Body who may remain throughout the meeting if someone other than the Chair of the Governing Body presents the case.

- The meeting will proceed in the following order:
 - The Academy representative (Investigating Officer, Senior Leader, or Headteacher) may make an opening address outlining the case. If the Academy's case is presented by someone other than the Investigating Officer, the Investigating Officer may remain in the hearing throughout with the Academy's representative.
 - The Academy representative will call each witness in turn so that
 - The witness is asked questions
 - The employee and their representative has the opportunity to question the witness
 - The Academy's representative may ask the witness questions of clarification
 - The Senior Leader / Headteacher / Governor Panel conducting the hearing has the opportunity to question the witness
 - Each witness withdraws after giving evidence, except the Academy representative who is a witness and presents the outcome of the investigation.
 - The employee's representative may make an opening address outlining the employee's case
 - The employee's representative will call each witness in turn so that
 - The witness is asked questions
 - The Academy representative has the opportunity to question the witness
 - The employee's representative may ask the witness questions of clarification
 - The Senior Leader / Headteacher / Governor Panel conducting the hearing has the opportunity to question the witness
 - Each witness withdraws after giving evidence, except that the employee who has been a witness to their own case has the right to remain throughout the hearing procedure.
 - The Academy representative and employee's representative shall have the opportunity to sum up their case if they so wish
 - Both parties then withdraw
 - The Senior Leader / Headteacher / Governor Panel conducting the hearing, together with the HR advisor, is to deliberate in private, only recalling the parties to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding that only one may be concerned with the point under clarification. The HR advisor shall provide technical and procedural advice and shall not vote on the matter.
 - The Senior Leader / Headteacher / Governor Panel conducting the hearing is to announce the decision to both parties at the close of the proceedings whenever possible. The decision will be confirmed in writing soon afterwards.
 - Where the decision is to dismiss or to give a formal written warning the employee will be advised of their right of appeal against the decision.

- **Representation at formal meetings:** The [Employment Relations Act 1999](#) gives workers and employees a statutory right to a “companion” at a formal hearing who can be a trade union representative or a fellow worker. Although there is no legal right to be accompanied at informal meetings there are times when this will be considered and such requests will not be unreasonably refused. An employee may choose to represent themselves, and in this situation the employee may be questioned as a witness.
- **Right to postpone formal meetings:** An employee may seek to postpone a formal meeting in order to have more time to consider his/her position, because of ill health or because of non-availability of his/her chosen companion. If an employee's representative cannot attend on the intended date, the employee must suggest another date within 5 working days of the original date.
- **Formal warning and dismissal decisions:** The Scheme of Delegation of the Academy Trust delegates the power to dismiss to the Headteacher, and these policies enable Senior Leaders to issue formal warnings up to and including final warnings. There may be occasions, however, where the Headteacher considers that it would be more appropriate for either of the following:
 - For formal warnings to be issued by the Headteacher rather than a Senior Leader. If this is the case, any meeting that may result in dismissal would be heard by a Governors Panel rather than the Headteacher, and any appeal would be heard by Governors who had not been involved in the initial dismissal hearing.
 - If the formal warnings were issued by a Senior Leader, the Headteacher may still decide that a meeting that may result in dismissal should be heard by a Governors Panel rather than the Headteacher. If this is the case, any appeal would be heard by Governors who had not been involved in the initial dismissal hearing.

If either of these situations is the case, the Headteacher shall confirm this to the employee. If the meeting that may result in dismissal is heard by a Governors Panel, the Headteacher may be the investigating officer and / or may present the case to the Governors Panel. The Governors Panel would consist of three Governors in normal circumstances (this may be reduced with consent from the employee), and these Governors could not then be involved in any subsequent Appeal Panel.

Appeals against formal warning decisions: The employee has a right of appeal against a written warning. The procedure is as follows:

- Appeals against formal warnings should be made in writing to the Clerk to the Governing Body within 10 working days of the receipt of the written decision, and must include the grounds for appeal.
- The appeal hearing will be held as soon as possible after receipt of the appeal. The purpose of the appeal hearing is to review the decision that was originally made and to decide if this decision was reasonable in all the circumstances, to review any procedural irregularities and to consider specifically the stated grounds of appeal.
- The appeal will be heard by:
 - The Headteacher, for a First Written Warning issued by a Senior Leader
 - An Appeals Panel of the Governing Body for a First Written Warning issued by the Headteacher, and for any Final Written Warnings. The number of governors on the Appeals Panel of Governors will usually be three, none of whom shall have had any previous involvement in the specific case.
- The Panel shall be advised by a HR Advisor.
- The Panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.

Appeals against dismissal decisions: The employee has a right of appeal against a decision to dismiss. Appeals against dismissal should be made in writing to the Clerk to the Governing Body within 10 working days of the receipt of the written decision, and must include the grounds for appeal. The appeal hearing will be held as soon as possible after receipt of the appeal. The purpose of the appeal hearing is to review the decision that was originally made, to review any procedural irregularities and to decide if this decision was reasonable in all the circumstances, and to consider specifically the stated grounds of appeal. The appeal will be heard by an Appeals Panel of the Governing Body. The number of governors on the Appeals Panel of Governors will not usually be less than three, none of whom shall have had any previous involvement in the specific case. The Panel shall be advised by an HR Advisor. The Appeal Panel may decide to issue a warning or a final warning rather than dismiss, and may decide that any warning may last for a specified period longer than the original twelve months of any previous final warning, if appropriate. There is no right of appeal against such a decision of the Appeal Panel of the Governors. In the event that the Appeal Panel decides not to uphold decision to dismiss, the notice of dismissal shall be immediately withdrawn or the employee will be reinstated, on terms agreed by the panel, if the dismissal has already taken effect.

● **Monitoring of operation of Policies/ procedures:** The Academy Trust will work towards developing an equality profile of staff to help it understand key equality issues in the workforce, including any evidence of pay gaps or 'occupational segregation' i.e. staff with certain protected characteristics being over-represented in particular roles. In addition, the Trust notes that it is likely to be useful to collect and consider information, appropriately disaggregated, in relation to:

- recruitment and promotion
- numbers of part-time and full-time staff
- pay and remuneration
- training
- return to work of women on maternity leave
- return to work of disabled employees following sick leave relating to their disability
- appraisals
- grievances (including about harassment)
- disciplinary action (including for harassment)
- dismissals and other reasons for leaving.

2. Whistleblowing

This policy should be read alongside the 'Common Principles' at the beginning of the policy suite.

2.1. Background

As employees are often the first to realise that there may be something wrong within the school, it is important that they feel able to express their concerns without fear of harassment or victimisation otherwise they may find it easier to ignore the concern rather than report it. The Public Interest Disclosure Act (PIDA) (in force since January 1999) recognises this fact and is designed to protect employees, who make certain disclosures of information in 'the public interest', from detriment and/or dismissal. This policy builds on the provisions of the Act.

The Governing Body is committed to the highest possible standard of operation, probity and accountability. In line with that commitment, employees and others with serious concerns about any aspect of the school's work are encouraged to come forward and voice those concerns. This policy document makes it clear that employees can do so without fear of reprisals; it is intended to encourage and enable employees to raise serious concerns within the school rather than overlooking a problem or blowing the whistle outside in an inappropriate way. It is recognised that cases may have to proceed on a confidential basis.

2.2. Aims and Scope of the Policy

This policy aims to:

- provide avenues for employees to raise concerns internally as a matter of course, and receive feedback on any action taken;
- provide for matters to be dealt with quickly and appropriately; and ensure that concerns are taken seriously;
- reassure employees that they will be protected from reprisals or victimisation for whistle-blowing in good faith;
- allow employees to take the matter further if they are dissatisfied with the Governing Body's response.

This policy describes how any school employee can raise any concerns s/he may have about working practices and who should be informed about the concerns. It may be that issues raised under this policy will be addressed via other procedures, e.g. anti-fraud and corruption, grievance, disciplinary, harassment and child protection procedures.

Concerns which fall within the scope of the whistleblowing procedure includes where an employee honestly and reasonably believes that malpractice or wrongdoing has occurred, is in the process of being committed or is likely to be committed, which may include:

- (a) criminal activity;
- (b) miscarriages of justice;
- (c) danger to health and safety;
- (d) damage to the environment;
- (e) failure to comply with any legal or professional obligation or regulatory requirements;
- (f) bribery;
- (g) financial fraud or mismanagement;
- (h) negligence;

- (i) breach of our internal policies and procedures
- (j) conduct likely to damage our reputation;
- (k) unauthorised disclosure of confidential information;
- (l) public examination fraud
- (m) the deliberate concealment of any of the above matters.

Before initiating the procedure employees should consider the following:

- the responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees;
- employees should use team meetings and other opportunities to raise questions and seek clarification on issues which are of day-to-day concern;
- whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, employees must act to prevent an escalation of the problem and to prevent themselves being potentially implicated.

All employees have the right to raise concerns, which could be about the actions of other employees, private contractors, governors, volunteers or outside agencies.

Concerns raised by employees about their own conditions of service or personal circumstances, should be addressed via the Academy's Grievance Procedure or, if the matter relates to salary, the salary review procedures documented in the Academy's pay policy.

2.3. Safeguards

2.3.1. Harassment or Victimisation

The Governing Body recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Governing Body will not tolerate harassment or victimisation and will take action to protect employees when they raise a concern.

This does not mean that if an employee is already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted as a result of that employee raising a concern under the whistleblowing policy.

2.3.2. Confidentiality

The Governing Body will do its best to protect an employee's identity if confidentiality is requested. However, it must be understood that should the concern raised need to be addressed through another procedure, e.g. disciplinary procedures, the employee may be asked to provide a signed statement as part of the evidence, thus revealing identity. Failure to provide such a statement may mean that further action cannot be taken by the Governing Body to address the concern and in some circumstances, the Governing Body may have to disclose the identity of the employee without their consent, although this will be discussed with the employee first.

2.3.3. Anonymous Allegations

Employees are encouraged to put their name to an allegation. Allegations expressed anonymously are much less powerful and more difficult to address, but they will be considered at the discretion of the Governing Body. In exercising the discretion, the factors to be taken into account would include:

1. the seriousness of the issues raised;

2. the credibility of the concern; and
3. the likelihood of confirming the allegation from attributable sources.

2.3.4. Untrue Allegations

If an employee makes an allegation and has a reasonable belief that the allegation is true and concerns wrongdoing or malpractice, but it is not confirmed by the investigation, no action will be taken against that employee. If, however, there is clear evidence that an employee has made malicious or vexatious allegations, disciplinary action may be taken against that employee.

2.3.5. Unfounded Allegations

Following investigation, allegations may be confirmed as unfounded. This outcome will be notified to the employee who raised the concern, who will be informed that the Governing Body deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

2.3.6. Support to Employees

It is recognised that raising concerns can be difficult and stressful. Advice and support will be made available, as appropriate, to both the employee(s) raising the concerns and the employee(s) subject to investigation.

2.4. How to raise a Concern

As a first step, an employee should normally raise concerns with their Manager or their Manager's Manager. This depends, however, on the seriousness and sensitivity of the issues and who is involved. For example, if an employee believes that their Manager or their Manager's Manager is involved, s/he should approach the Headteacher or Chair of the Governing Body. An employee (including the Headteacher and members of the leadership team) can by-pass the direct management line and the Governing Body if s/he feels the overall management and Governing Body of a school is engaged in an improper course of action; in this case please refer to section 8.7 below.

Concerns are better raised in writing. The employee should set out the background and history of the concerns, giving names, dates and places where possible, and the reasons why s/he is particularly concerned about the situation. If an employee does not feel able to put the concern in writing, s/he should telephone or meet the appropriate person. It is important that, however the concern is raised, the employee makes it clear that s/he is raising the issue via the whistle-blowing procedure.

The earlier an employee expresses the concern, the easier it is to take action.

Although an employee is not expected to prove the truth of an allegation, s/he will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

In some instances it may be appropriate for an employee to ask their trade union to raise a matter on the employee's behalf. An employee is entitled to seek confidential advice on the matter from their trade union representative.

2.5. The Role of Senior Leaders

A Senior Leader may be informed by an employee about concern(s) and that s/he is "blowing the whistle" within the procedure in person; or in writing or over the phone.

The Senior Leader should respond immediately by arranging to meet with the employee to discuss the concern(s) as soon as possible.

2.5.1. Stage One

At the initial meeting the Senior Leader should establish that:

- there is genuine cause and sufficient grounds for the concern; and
- the concern has been appropriately raised via the Whistle-blowing Policy.

The Senior Leader should ask the employee, to put their concern(s) in writing, if s/he has not already done so. The Senior Leader should make notes of the discussions with the employee. The employee's letter and/or Senior Leader's notes should make it clear that the employee is raising the issue via the whistle-blowing procedure and provide:

- the background and history of the concerns; and
- names, dates and places (where possible); and
- the reasons why the employee is particularly concerned about the situation.

The employee should be asked to date and sign their letter and/or the notes of any discussion. The Senior Leader should positively encourage the employee to do this, as a concern expressed anonymously is much less powerful and much more difficult to address, especially if the letter/notes become evidence in other proceedings, e.g. an internal disciplinary hearing.

The Senior Leader should follow the policy as set out above and in particular explain to the employee:

- what steps s/he intends to take to address the concern;
- how s/he will communicate with the employee during and at the end of the process; and that a written response will be sent out within ten working days.
- that their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed;
- that the Governing Body will do all that it can to protect the employee from discrimination and/or victimisation;
- that the matter will be taken seriously and investigated immediately; and
- that if the employee's concern is raised in accordance with this policy but is not confirmed by the investigation, no punitive action will be taken against them.

The Senior Leader should explain to the employee that:

- if clear evidence is uncovered during the investigation that s/he has made a malicious or vexatious allegation, disciplinary action may be taken against them; and
- the investigation may confirm their allegations to be unfounded in which case the Governing Body will deem the matter to be concluded and s/he will be expected not to raise the concern again, unless new evidence becomes available.

The employee may be accompanied by a trade union representative or workplace colleague at this meeting.

2.5.2. Stage Two

Following the initial meeting with the employee, the Senior Leader should consult with the Headteacher or Chair of the Governing Body to determine whether an investigation is appropriate

and, if so, what form it should take. A record should be made of the decisions and/or agreed actions.

It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, Senior Leaders should take the following factors into account:

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

In some cases, it may be possible to resolve the concern(s) simply, by agreed action or an explanation regarding the concern(s), without the need for further investigation. However, depending on the nature of the concern(s) it may be necessary for the concern(s) to:

- be investigated internally;
- be referred to the police;
- be referred to the academy's external auditor;
- form the subject of an independent enquiry.

Senior Leaders should have a working knowledge and understanding of other school policies and procedures, e.g. disciplinary, harassment, child protection procedures, to ensure that concerns raised by employees are addressed via the appropriate procedure/process. Advice is available from the academy's HR advisor.

2.5.3. Stage Three

Within ten working days of a concern being received, the Senior Leader receiving the concern must write to the employee:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response; and/or
- telling the employee whether any initial enquiries have been made; and
- telling the employee whether further investigations will take place, and if not why not; and/or
- letting the employee know when s/he will receive further details if the situation is not yet resolved; and
- providing the employee with details of whom to contact should s/he be dissatisfied with this response (see 8.7 below).

2.6. Governing Body consideration

The Headteacher will inform the Governing Body of any concerns raised through this policy and the response. The Governing Body will take such action as it deems necessary in light of any concerns raised through this policy.

2.7. Raising Concerns outside the School

The whistle-blowing policy is intended to provide employees with a mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases the employee should not find it necessary to alert anyone externally. In circumstances where an employee decides to raise the matter externally they will only be protected under this procedure, and under employment law, where the disclosure is made in accordance with the Public Interest Disclosure

Act 1998 (PIDA). This means that the disclosure must fall under one of the 6 categories listed in bullet points in paragraph 8.2 above.

If an employee is not satisfied with the Governing Body's response, the Senior Leader should ensure that the employee is made aware with whom they may raise the matter externally (see 1-5 below):

- 'Public Concern at Work' <http://www.pcaw.co.uk>; tel no 0207 404 6609*;
- recognised trade union;
- the academy's external Auditor;
- relevant professional bodies or regulatory organisations;
- a solicitor.

It will very rarely, if ever, be appropriate to alert the media. We strongly encourage employees to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Public Concern at Work, operates a confidential helpline. They also have a list of prescribed persons/regulators for reporting certain types of concern. For a qualifying disclosure to be protected in these circumstances, the worker must reasonably believe that:

- The default falls within the remit of the prescribed person in question; and
- The information disclosed and any allegation contained in it are substantially true.

The Senior Leader should stress to the employee that if they choose to take a concern outside the Academy, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e. confidential information, in whatever format, is not handed over to a third party. An employee is entitled at this stage to seek confidential advice on the matter from their trade union representative.

2.7.1. Wider disclosure

PIDA contemplates that there may be a public interest in workers making qualifying disclosures beyond employers or prescribed persons. It does not name or limit the identity of those to whom wider disclosure can be made, but their identity will be key to the question of whether disclosure was reasonable. Prior to disclosure to a third party the worker must:

- Reasonably believe, at the time of disclosure, that the information and allegations are substantially true, and
- Does not make the disclosure for personal gain; and
- Have previously disclosed substantially the same information to their employer or to a prescribed person; or
- Reasonably believe, at the time of disclosure, that they will be subjected to a detriment by their employer if they make disclosure to the employer or a prescribed person; or
- Reasonably believe (where there is no prescribed person) that material evidence will be concealed or destroyed if disclosure is made to the employer.

In all the circumstances of the case, it must be reasonable for them to make the disclosure.

If the concern needs to have Police or other statutory authority involvement, the whistleblowing process will be halted until the statutory authorities have completed their investigations and confirmed that it is appropriate to continue with the whistleblowing process.

Employees who wish to take the matter outside the academy should check with their Trade Union representative that they are not in breach of the Academy's Code of Conduct.

** - Public Concern at Work is a registered charity that employees can contact for advice to assist them in raising concerns about poor practice at work. The charity also provides advice to employers as to the possible ways to address these concerns.*