



WHISTLE BLOWING POLICY

**Reporting illegal or improper conduct
(disclosures under the Public Interest Disclosures Act 1998)
or concerns about safeguarding children or young people**

Author	Heather Cowan
Adopted by Acorn Education Trust Board	February 2016
Last Amended	October 2016
Review date	February 2018



1 Introduction

This policy applies to all employees; members of the Board; Academy Council members; consultants; contractors; casual workers and agency workers.

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

It is important to the Trust that any fraud, misconduct or wrongdoing by employees, Trustees, or Academy Council members is reported and properly dealt with. The Trust Board will, therefore respond to all individuals who raise genuine concerns, **which are in the public interest**, about the conduct of others in the Trust. This policy sets out the ways in which individuals may raise concerns and how they will be dealt with.

- 1.1 Acorn Education Trust expects the highest standards of conduct from all employees, Trust and Academy Council members and will treat seriously any concern raised about illegal or improper conduct.
- 1.2 Any individual covered by this policy will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the headteacher (or Chair of the Board if the concerns relate to the headteacher) any serious impropriety or breach of procedure.
- 1.3 Employees who do not follow the steps identified in this procedure, and take their concerns to other outside sources (e.g. the press), may be subject to a formal disciplinary investigation.

2 Background

The law provides protection for employees who raise legitimate concerns about specified matters. These are called 'qualifying disclosures'. A qualifying disclosure is one made in the public interest by the employee who has a reasonable belief that:

- A criminal offence
- A miscarriage of justice
- An act creating risk to health and safety
- An act causing damage to the environment
- Corruptly receiving any gift or advantage, thus failing to comply with the Bribery Act 2010
- Allowing private interests to override the interests of the school
- A breach of any legal obligation: or
- concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, - a reasonable belief is sufficient. The employee has no responsibility for investigating the matter; it is the Trust's responsibility to ensure that an investigation takes place.

1.4 Where the concerns are about **safeguarding children or young people**, the academy's Designated Safeguarding Lead (DSL) should be notified.

1.5 It is a procedure in which the headteacher or Chair of the Board will be expected to act swiftly and constructively in the investigation of any concerns in accordance with the Trust's disciplinary procedure.

1.6 Concern about a colleague's professional capability should **not** be dealt with using this procedure (but see section 5 below).

2. When should it be used?

This procedure is for disclosures about matters other than a breach of an employee's own contract of employment. If an employee is concerned that their own contract has been, or is likely to be, broken they should use the Trust's grievance procedures.

Where a disclosure is merely an expression of opinion that fails to show that a legal obligation has been or is likely to be breached, it cannot amount to a protected or qualifying disclosure for the purposes of the whistle blowing legislation.

2.1 This procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved by their own situation. Nor should this policy apply where the employee simply disagrees with the way the Academy is run.

2.2 Employees must have reasonable grounds for believing the information they have is accurate and not just idle gossip.

2.3 An employee who makes such a protected disclosure has the right not to be dismissed, subject to any detriment, or victimised, because they have made a disclosure, provided it has not been made maliciously. Any employee who uses

this procedure will not be penalised for doing so. The Trust will not tolerate harassment and/or victimisation of any employee raising concerns.

2.4 Financial regulations require that any suspicion of fraud, corruption or other financial irregularity is reported to the Trust's Accounting Officer who will refer to the Trust's Fraud Policy for actions.

3. Principles

3.1 Any Matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.

3.2 No employee will be victimised for raising a matter under this procedure. This means the continued employment and opportunities for future promotion or training of the employee will not be prejudiced because they have raised a legitimate concern.

3.3 Victimisation of an employee for raising a qualified disclosure will be a disciplinary offence.

3.4 If misconduct is discovered as a result of any investigation under this procedure the matter will be considered under the disciplinary procedure, in addition to any appropriate external measures.

3.5 Maliciously making a false allegation is a disciplinary offence.

3.6 An instruction to cover up wrongdoing is in itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, employees should not agree to remain silent.

4. Procedure

4.1 In the first instance, unless the employee reasonably believes their headteacher to be involved in the wrongdoing, any concerns should be raised with the employee's headteacher. At this stage the headteacher will inform the CEO that an issue has been raised under the whistleblowing policy. If they believe the headteacher to be involved, then the employee should proceed to stage 3 (see 4.3).

4.2 At this stage the headteacher will inform the CEO that an issue has been raised by an employee under the whistleblowing policy. The headteacher will arrange an investigation into the matter and will appoint an appropriate manager to investigate. The investigation may involve the employee and others involved giving written statements. Any investigation will be carried out in accordance with the principles set out. The employee's statement will be taken into account and they will be asked to comment on any additional evidence obtained.

Employees who want to use the procedure but feel uneasy about it may wish to consult their Professional Association/Trade Union initially and bring a colleague or representative along to any discussions, so long as the third party is not involved in the issue.

Where anonymity is requested efforts will be made to meet the request where appropriate but that may not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.

4.3 The headteacher (or the person who carried out the investigation) will then report to the headteacher/Chair of the Trust as appropriate who will take the necessary action, including reporting the matter to any appropriate external or regulatory agency. If disciplinary action is required this will be taken forward by the headteacher/Trust Chair in consultation with the Trust's HR department. On conclusion of any investigation the employee will be told the outcome of the investigation and what the next steps will be. If no action is to be taken the reason for this will be explained.

If the employee is concerned that their headteacher is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigation, they should inform the Chair of the Trust who may appoint an independent investigator to consider the case and if there are grounds for procedure. If the Chair of the Trust is involved in the wrongdoing this concern should be raised with the Vice Chair of the Trust/CEO who may appoint an independent investigator to consider the case and if there are grounds for proceeding. Employees who feel unable to follow this route for whatever reason, have the option of contacting one of the following:

- HM Revenue and Customs
- The Financial Services Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Director of Public Prosecutions
- The Serious Fraud Office
- The Education Funding Agency
- The Department for Education
- The National College for Teaching and Leadership

5. Safeguarding Children and Young People

5.1 All employees have a duty to report concerns about the safety and welfare of pupils/students

5.2 Concerns about any of the following should be reported to the Designated Safeguarding Lead (DSL) in the academy:

- Physical abuse of a pupil/student
- Sexual abuse of a pupil/student
- Emotional abuse of a pupil/student
- Neglect of a pupil/student
- An intimate or improper relationship between an adult and a pupil/student

5.3 The reason for the concern may be the actions of a colleague (including a more senior colleague), a member of the Board or Academy Council member, another pupil/student or someone outside the school. Whatever the reason, concerns must be reported. Failure to report a Child Protection related allegation will be in itself, a disciplinary matter.

Law Relating to this Document

Employments Rights Act 1996

Public Interest Disclosures Act 1998

This policy takes account of the Whistleblowing Arrangements Code of Practice issued by the British Standards Institute and Public Concern at Work.

The legislation protecting individuals who make a protected disclosure applies not only to employees, but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the Trust, regardless of the nature of the contractual relationship between them.

A qualifying disclosure means any disclosure of information that in the reasonable belief of the employee is made **in the public interest**. The requirement that a whistleblower can make a qualifying disclosure **‘in good faith’ has been removed**. A consequence of the requirement that a disclosure be made in the public interest is that an employee will generally be precluded from being able to ‘blow the whistle’ about breaches of their employment contract.

Section 43J of the Employments Rights Act 1996 provides that a Settlement Agreement made between an employee and employer cannot prevent future disclosures.

Any confidentiality obligations in contracts of employment that would prevent an employee making a protected disclosure will be void.

Contacts

Acorn Education Trust HR Director (Operational responsibility for Whistleblowing Policy)	Heather Cowan 01985 224202 cn@acorneducationtrust.com
Acorn Education Trust CEO	Sara Edwards 01985 224212 ew@acorneducationtrust.com
Chair of Acorn Education Trust	David Middleton dgm@acorneducationtrust.com
Public Concern at Work (Independent whistleblowing charity)	020 74046609 whistle@pcaw.co.uk www.pcaw.co.uk
NSPCC Whistleblowing Advice Line	0800 028 0285 help@nspcc.org.uk
Wiltshire LA Children's Social Care	Office Hours 0300 456 0108 Out of Hours 0845 6070 888
OFSTED	0300 123 4666
School Academy Councils	zas@acorneducationtrust.com