

Whistleblowing Policy

Date Last Reviewed: March 2021
Reviewed by: CEO
Approved by: MLT Board

Implemented following consultation with recognised Trade Unions

STATEMENT OF INTENT

Maltby Learning Trust ('the Trust') 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 that 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 that any person suspecting 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 (available on each Academy and Trust website.)

1. LEGAL FRAMEWORK

- 1.1. This policy has due regard to all relevant legislation including, but not limited to, the following:
 - Public Interest Disclosure Act 1998.
 - Employment Rights Act 1996.
- 1.2. This policy has been created with regard to the following guidance documents:
 - ESFA (2020) 'Academies financial handbook 2020'.
 - GOV.UK (2015) 'Whistleblowing for employees'.
 - DfE (2014) 'Whistleblowing procedure for maintained schools'.
 - Sir Robert Francis (2015) 'Freedom to speak up report'.
- 1.3. This policy operates in conjunction with the following Trust policies:
 - Disciplinary and Dismissal Policy and Procedure (available in Academy Staff Document Areas.)
 - Records Management Policy (available in Academy Staff Document Areas.)
 - Complaints Policy (available on each Academy and Trust website.)
 - Data Protection Policy (available on each Academy and Trust website.)
 - Child Protection and Safeguarding Policy (available on each Academy and Trust website.)

2. INTRODUCTION

- 2.1. The Public Interest Disclosure Act 1998 (PIDA) protects employees who “blow the whistle” where the employee reasonably believes that the disclosure falls within the remit of the prescribed person or body and that the information and any allegations are substantially true.
- 2.2. Disclosures made under this procedure will be monitored for statistical purposes as required under the PIDA. The details of any disclosure will remain confidential.
- 2.3. The CEO is the first point of contact for whistleblowing queries. If the allegation is related to the CEO, the concern will be raised with the Chair of the MLT Board. (Contact can be made via the Clerk to the MLT Board.)
- 2.4. Any member of the Trust community or the general public can “blow the whistle”; however, the PIDA only protects employees. [Section 7](#) includes further details on how whistleblowing affects non-employees.

3. DEFINITIONS

- 3.1. **Whistleblowing:** Whistleblowing is when an employee reports suspected wrongdoing, or ‘qualifying disclosures’, at work to their employer.
- 3.2. **Qualifying disclosures:** 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.
 - 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 whistle-blower.
- 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 AND RESPONSIBILITIES:

- 4.1. The Trust Board is responsible for:
- Establishing and agreeing the whistleblowing procedure.
 - Monitoring the effectiveness of this policy and undertaking any necessary reviews, e.g. in relation to good practice recommendations or changes in legislation.
 - Ensuring all those referenced, in Section 5.3, have access to this policy.
 - Investigating, in liaison with the CEO, any concerns that are raised.
 - Ensuring this policy provides an open and transparent framework where members of the Trust community can raise their concerns.
 - Taking the necessary action against members of staff following an investigation into any alleged malpractice.
 - Ensuring that the minutes of the Trust board include a record of the Trust's whistleblowing arrangements and who, both internally and externally, staff members should report concerns to.
 - Appointing one Trustee and one member of staff to act as points of contact for staff members when reporting concerns.
 - Ensuring this policy is published on the Trust website.
- 4.2. The CEO 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 the Trust community.
 - Being the first point of contact regarding whistleblowing.
- 4.3. The Chair of the Board will be responsible for receiving any concerns raised about the CEO.
- 4.4. All members of the Trust community will be responsible for:
- Raising any concerns that meet the definitions of 3.2 and 3.3 of this policy.
 - Being truthful and reasonable with any concerns that they have.
 - Not raising malicious or unfounded concerns.

5. SCOPE

- 5.1. This policy will:
- Give confidence to members of the Trust community 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 the Trust community with avenues to raise concerns.
 - Ensure that members of the Trust community 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.
- 5.2. This policy, which addresses matters of public interest, will not be confused with the procedure on dealing with harassment at work or the Trust's Grievance and Disciplinary Procedures (available in Academy Staff Document Areas), which address matters of personal interest.
- 5.3. Under this policy, any of the following can raise a concern:
- Employees of the Trust.
 - Employees of contractors working for the Trust, for example, agency staff, builders and drivers.
 - Employees of suppliers.
 - Voluntary workers working with the Trust.
 - A trainee, such as a student teacher.
 - Pupils.
 - The wider community.
 - Governors.
 - Trustees.

6. HARASSMENT AND VICTIMISATION OF STAFF

- 6.1. The Trust recognises that 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 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.

- 6.2. 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.
- 6.3. Any member of staff who allegedly victimises or harasses a member of staff as a result of their having raised a concern in accordance with this policy will be subject to an investigation under the Trust's Disciplinary Policy and Procedure (available in Academy Staff Document Areas.)

7. NON-EMPLOYEES

- 7.1. The PIDA and the Employment Rights Act 1996 **do not** protect non-employees as far as whistleblowing is concerned.
- 7.2. Irrespective of 7.1, the Trust will not allow harassment, dismissal or exclusion for any non-employee who raises a genuine concern.
- 7.3. Where an individual feels that they have been unfairly treated following blowing the whistle, they should make a complaint under the Trust's Complaints Policy (available on each Academy and Trust website.)
- 7.4. Trustees and Governors are not employees and, while they are responsible for ensuring there is a whistleblowing procedure in place, they are not protected under the PIDA.

8. GOOD PRACTICE PRINCIPLES

- 8.1. The Trust will implement the core whistleblowing principles, as outlined in the 'Freedom to speak up report', to ensure that whistleblowing procedures are fair, clear and consistent.
- 8.2. The Trust will promote a **culture of change** by ensuring the following principles are reflected in our ethos and values – the Trust will promote 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.
- 8.3. By providing a clear procedure for mediating and resolving cases, as outlined in [section 9](#), the Trust will ensure that 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.

- 8.4. 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.
- 8.5. 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 students and trainees are subject to all the safeguarding and whistleblowing principles.
 - Ensuring staff are empowered and protected, enabling them to raise concerns freely.

9. PROCEDURE

9.1 HOW TO RAISE AND REPORT CONCERNS:

- 9.1.1 When raising concerns, individuals will express them in writing to the CEO.
- 9.1.2 If an individual is raising a concern about the CEO, they should express their concerns in writing to the Chair of Board. Where this is the case, the Chair of Board will take on the CEO's duties outlined in [section 9](#).
- 9.1.3 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.
- 9.1.4 The Trust encourages individuals to let their identity be known when they raise concerns. Concerns can be raised anonymously but if the person raising the concern has not provided enough information this can make investigating more challenging so as much information as possible should be provided.
- 9.1.5 Individuals can give their name, but request confidentiality and the Trust will make every effort to protect their identity. If requested, individual's names will not be released without their consent.
- 9.1.6 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](http://www.protect-advice.org.uk) (www.protect-advice.org.uk), or they can

be contacted on 020 31172520. Employees are advised to contact their trade union for support.

9.1.7 In certain instances, it may be appropriate for the individual to raise the concern with an outside agency, e.g. the police, depending on the severity of the concern. Equally, it may be appropriate for the individual to request that their trade union raises the matter.

9.1.8 If a member of staff feels they should report a concern to the ESFA, they should use the [online contact form](#).

9.2 HOW INVESTIGATIONS WILL BE CONDUCTED

9.2.1 Once an individual has raised a concern, the Trust will be responsible for investigating it.

9.2.2 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 whistle-blower, as this may undermine the legitimacy of the investigation outcome.

The CEO will write to the individual within 5 working days to confirm that the concern has been received, as well as to indicate proposals for dealing with the matter.

9.2.3 The initial investigatory stage will be a meeting with the whistle-blower. An assessment of further action will be discussed. During this initial stage, the CEO will establish if:

- There are grounds for a concern and that it is genuine.
- The concern was raised in accordance with this policy.

9.2.4 During the initial meeting, the CEO will explain the following to anybody raising a concern:

- How they will communicate with the whistle-blower throughout the process.
- It should be noted, the need for confidentiality may prevent the Trust giving the whistle-blower specific details of any necessary investigation or any necessary disciplinary action taken as a result of the concern.
- That the whistle-blower's identity will be kept confidential from the alleged wrongdoer.
- That the Trust Board will do everything in its power to protect the whistle-blower from discrimination and any other unfair treatment or detriment.
- That, if the concern is genuine, even if the concern is not confirmed, no disciplinary action will be taken against the whistle-blower.

9.2.5 If clear evidence is uncovered that suggests the whistle-blower's concern is malicious or unfounded, the whistle-blower will be subject to an investigation under the Trust's Disciplinary Policy and Procedure (available in Academy Staff Document Areas.)

9.2.6 If an investigation is carried out, the whistle-blower will be informed of the outcome.

9.2.7 A record will be kept of the seriousness of the issues raised and the credibility of the concern. All records will be kept confidential and will be stored in line with the Trust's Records Management Policy (available in Academy Staff Document Areas.)

9.3 HOW THE TRUST WILL MEDIATE AND RESOLVE DISPUTES

- 9.3.1 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.
- 9.3.2 If the investigating officer needs to talk to the whistle-blower, they are 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.
- 9.3.3 A record will be made of the nature and outcome of the concern. The purpose of this is to ensure that 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.
- 9.3.4 The whistle-blower 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 whistle-blower will be given an explanation.

10. WHAT THE TRUST ASKS OF YOU

- 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 whistle-blowers:
- Do not take the concern outside the Trust, e.g. gossiping.
 - 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 alleged wrong doing is continuing and/or the whistle-blower is not satisfied with the way the matter has been handled, they can make a complaint under the Trust's Complaints Procedure (available on each Academy and Trust website.)
- 11.2 Any complaint made against a member of staff/ Principal will be initially dealt with by the Principal/Executive Leader (respectively), and then by a committee of Trustees/Local Governors.
- 11.3 Any complaint made against a Governor/Trustee, Local Governance Committee/ Trust Board should be made in writing to the Clerk to the Board.

The Clerk will then determine the most appropriate course of action, depending on the nature of the complaint. This action may involve sourcing an independent investigator to initially deal with the complaint and then getting the complaint to be heard by Trustees.

12. UNFAIR TREATMENT

- 12.1 An individual can take a case to an employment tribunal if they feel that they have been treated unfairly as a result of whistleblowing.
- 12.2 Further information can be sought from the [Citizen's Advice Bureau](#), the whistleblowing charity [Protect](#), or from an individual's trade union.
- 12.3 Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.
- 12.4 Any claim of unfair dismissal needs to be made within three months of the investigation ending. Workers who 'blow the whistle' on wrongdoing in the workplace can claim unfair dismissal if they are dismissed or victimised for doing so. An employee's dismissal (or selection for redundancy) is automatically considered 'unfair' if it is wholly or mainly for making a protected disclosure.

13. POLICY REVIEW

- 13.1 The Trust is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.
- 13.2 All policy reviews will be undertaken in consultation with Trade Unions and an Equality Impact Assessment will also be undertaken with each review.