

## Whistleblowing Policy

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<b>Approved by</b>	Trustees
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<b>Links to other procedures</b>	Disciplinary Policy & Procedure, Dignity at Work Policy, Grievance Policy & Procedure

This policy has been adopted by the Board of Directors of the South York Multi Academy Trust and applies to all schools that make up the Trust. This policy applies to each school operating within the South York Multi-Academy Trust unless specific conditions and applications are identified within this policy.

This policy will be monitored regularly by the Multi Academy Trust Board in line with the agreed timetable for policy review or sooner as events or legislation changes require.



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## **1. Introduction**

In this policy 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within one of the South York MAT schools (SYMAT) or across the South York MAT Trust (the 'Trust').

Employees are often the first to realise that there may be something seriously wrong within an organisation.

'Whistleblowing' is viewed by the Trust as a positive act that can make a valuable contribution to the Trust's efficiency and long-term success. It is not disloyal to colleagues or the Trust to speak up.

The [Public Interest Disclosure Act \(1998\)](#) protects workers from detrimental treatment or victimization from their employer if, in the public interest, they blow the whistle on wrongdoing. It also places a responsibility on employers to have clear policies and procedures to support whistleblowing.

## **2. Roles and Responsibilities**

### **Board of Trustees**

The SYMAT Board of Trustees are responsible for approval of all Trust employment policies and will do so following the relevant persons within the Trust having consulted where appropriate, with appropriate colleagues and Trade Unions on the content of the policy.

### **Chief Executive Officer (CEO)**

The CEO has overall responsibility to ensure that the expected standards for behaviour and conduct of employees across the Trust are clear and that all employees are aware of the Whistleblowing Policy and how employees should feel supported should they need to report a concern.

### **School Governing Board**

The individual School Governing Board and its Governors are responsible for supporting senior leaders with any matters brought to the attention of the School and/or Trust under this Policy that may require investigation and/or disciplinary action.

### **Headteachers**

Headteachers are responsible for ensuring that all employees are aware of the Whistleblowing Policy and have opportunity to read and review it.

Headteachers are responsible for supporting Governing Boards and the CEO with any matters brought to the attention of the School and/or Trust under this Policy that may require investigation and/or disciplinary action.

## **Employees**

Employees should report all concerns about suspected wrongdoing within the workplace (excluding any related to their own contract of employment) which come to their attention during their employment, providing that they have a reasonable belief that their concerns are accurate and that it is in the public interest that those concerns should be subject to further scrutiny. Where possible, employees should put their name to any whistleblowing disclosures made and fully participate in any investigation following a whistleblowing disclosure made by them.

## **Human Resources (HR)**

HR will provide advice and guidance to the CEO, Headteachers, Senior Leaders and employees regarding the application of this policy. HR will provide support to any investigation and/or disciplinary action that may be instigated as a result of a concern brought to the attention of an Academy or the Trust under this policy.

## **Trade Unions**

The Trust will work with and consult with Trade Unions on a regular basis in respect of this policy

## **3. Aims**

The aim of this policy is to encourage employees and others who have serious concerns about any aspect of the Trust's work to come forward and voice those concerns.

The Trust is committed to providing an excellent quality of education and achieving the highest possible ethical standards in its communities and in all of its practices. To help achieve these standards it encourages freedom of speech.

If an employee is considering raising a concern, they should read this policy first. It explains:

- the type of issues that can be raised;
- how the person raising a concern will be protected from victimisation and harassment;
- how to raise a concern, and what the Trust will do.

If an employee is unsure whether to use this policy or they wish to seek independent advice at any stage, they may contact the independent charity 'Protect' by visiting their website at <https://protect-advice.org.uk/contact-protect-advice-line/>. Their advisers can give free confidential advice on how to raise a concern about serious malpractice at work.

This policy is designed to ensure that employees can raise their concerns about wrongdoing or malpractice within the Trust without fear of victimisation, subsequent discrimination, disadvantage or dismissal.

It is also intended to encourage and enable employees to raise serious concerns within the Trust rather than ignoring a problem or 'blowing the whistle' outside.

This policy aims to:

- encourage employees to feel confident in raising serious concerns at the earliest opportunity and to question and act upon concerns about practice;
- highlight that failure to report a concern relating to the wellbeing of children could be seen as a failing in professional duty for some employees and be a breach of legislation or professional standards resulting in possible disciplinary action;
- provide avenues for employees to raise concerns and receive feedback on any action taken; ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied;
- reassure that employees will be protected from possible reprisals or victimisation if they have made any disclosure in good faith and in accordance with this policy.

#### **4. Scope of this Policy**

This policy is intended to enable those who become aware of wrongdoing within the Trust affecting a student, employee or some other person, to report their concerns at the earliest opportunity so that they can be properly investigated.

The Whistleblowing Policy is not intended to replace existing procedures:

- if your concern relates to your own treatment as an employee, you should raise it under the existing grievance or dignity at work procedures.

#### **5. Who can raise a concern under this Policy**

This policy applies to all:

- employees of South York Multi-Academy Trust (the 'Trust');
- employees of contractors working for the Trust, for example, agency staff, builders and drivers;
- employees of suppliers;
- Trustees and Local Governing Board Governors;
- volunteers or other workers working with the Trust.

#### **6. What should be reported**

Any serious concerns that arise about the curriculum or the conduct of employees of the Trust or others acting on behalf of the Trust that:

- make you feel uncomfortable in terms of known standards;
- are not in keeping with the Trust's policies and procedures;
- fall below established standards of practice; or are improper behaviour.

These might relate to:

- conduct which is an offence or a breach of the law (a criminal offence has been committed or failing to comply with any other legal obligation);
- disclosures related to miscarriages of justice;
- racial, sexual, disability or other discrimination;
- health and safety of the public and/or other employees/pupils;

- damage to the environment, or intention to damage the environment;
- unauthorised use of public / Trust funds or other assets;
- possible fraud and corruption or theft;
- deliberately covering up any of the above; or the Trust or any associated person within the Trust has been, is being or is likely to be receiving or offering bribes;
- breach of any statutory code of practice;
- other unethical conduct.

(This list is not exhaustive.)

## **7. Prescribed Persons**

The Public Interest Disclosure (Prescribed Persons) Order 2014 sets out a list of over 60 organisations and individuals that a worker may approach outside their workplace to report suspected or known wrongdoing. For the Education Sector these organisations are:

### **Ofsted**

Piccadilly Gate

Store Street

Manchester

M1 2WD

Tel: 0300 123 3155

<https://contact.ofsted.gov.uk/online-complaints-schools>

### **Office of Qualifications and Examinations Regulation (Ofqual)**

- *about matters in relation to which the Office of Qualifications and Examinations Regulation exercise functions under the Apprenticeships, Skills, Children and Learning Act 2009.*

### **Complaints and Investigations Manager Ofqual**

Earlsdon Park

53 – 55 Butts Road

Coventry

CV1 3BH

Tel: 0300 303 3346

[Website: https://complaints.ofqual.gov.uk/](https://complaints.ofqual.gov.uk/)

### **Secretary of State for Education**

Ministerial and Public Communications Division

Department for Education

Piccadilly Gate

Store Street

Manchester

M1 2WD

Tel: 0370 000 2288

Website: [www.gov.uk/contact-dfe](http://www.gov.uk/contact-dfe)

The purpose of a prescribed person provides employees with a mechanism to make their public interest disclosure to an independent body that may be able to act on them. An employee will potentially qualify for the same employment rights as if they had made a disclosure to their employer if they report to a prescribed person. In order to qualify for this right, as well as meeting the criteria set out above, the employee must have a reasonable belief that:

When a whistle blower makes a disclosure to a prescribed person they escalate the issue beyond their employer, as those with investigatory and regulatory functions can consider acting upon the information that has been disclosed to them.

The prescribed person needs to decide, and clearly communicate, whether they limit their role to the receipt of protected disclosures only or are accepting of a wider range of non-

protected disclosures. This will depend on the prescribed person's statutory functions beyond the whistleblowing legislation.

The prescribed person is not responsible for deciding whether the individual who has made the disclosure qualifies for protection. Ultimately this will be decided by the employment tribunal in contested cases.

The Trust benefits from an open whistleblowing culture; for example, by having this policy established and readily available to all employees, it is more likely that concerns will be raised internally, which reduces the likelihood of escalation to an Ofsted or the Exam Regulator.

## **8. Protecting the Whistle blower**

### **8.1 Legal rights**

This policy has been written to take account of the Enterprise and Regulatory Reform Act 2013 (amended The Employment Rights Act 1996) and the Public Interest Disclosure Act 1998 which protects employees making disclosures about certain matters of concern, when those disclosures are made in accordance with the Act's provisions and in good faith and in accordance with this policy.

The Act makes it unlawful for the Trust to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

Rarely, a case might arise where it is the employee that has participated in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible. The Trust cannot promise not to act against such an employee, but the fact that they came forward may be taken into account.

### **8.2 Harassment or Victimisation**

The Trust is committed to good practice and high standards and to being supportive of all employees.

The Trust recognises that the decision to report a concern can be a difficult one to make. If an employee honestly and reasonably believes what they are saying is true, they should have nothing to fear because they will be doing their duty to their employer, colleagues and those for whom they are providing a service.

The Trust will not tolerate any harassment or victimisation of a whistle blower (including informal pressures) and will take appropriate action to protect the whistle blower when a concern is raised in good faith and in accordance with this policy and will treat this as a serious disciplinary offence, which will be dealt with under the Trust Disciplinary Policy.

### **8.3 Support to Employees**

Throughout this process:

- employees will be given full support from their designated line manager within the School's Senior Leadership Team, Trust Central Team or other designated leader;



- concerns will be taken seriously; and
- the Trust will do all it can to help employees throughout the investigation.

If appropriate, the Trust will consider temporary re-deployment or adjustment to duties as may be required for the period of the investigation in order to aid the conclusion of an objective investigation being carried out or as a means to support the employee making the disclosure.

#### **8.4 Confidentiality**

Employees should feel able to voice whistleblowing concerns openly under this policy. However, if employees wish to raise their concern confidentially, the Trust will make every effort to keep the employee's identity secret. If it is necessary for anyone investigating the concern to know the employee's identity, this will be discussed with the employee before that disclosure is made.

Notwithstanding the above, employees should be aware that a proper investigation may be more difficult or impossible if the employee wishes to remain anonymous or if further information cannot be obtained from the employee.

Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Headteacher, Senior Leader, HR, CEO or the next most Senior Manager and appropriate measures will be taken to preserve confidentiality.

#### **8.5 Anonymous Allegations**

This policy encourages employees to put their name to the allegation(s) whenever possible. If the employee does not tell the Trust who they are it will be much more difficult for the Trust to protect the employee's position or to give feedback. This policy is not ideally suited to concerns raised anonymously.

Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the Trust. In exercising this discretion, the factors to be taken into account would include:

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

#### **8.6 Malicious Actions**

The Trust may take appropriate action against any employee who is:

- found to be victimising another person for using this policy or deterring any person from reporting genuine concerns under it;
- making the disclosure/allegation(s) maliciously, with a view to personal gain, or where there were no reasonable grounds for believing that the information supplied was accurate.

Such employees could be subject to disciplinary action under the Trust's disciplinary policy, which may result in dismissal.

## **9. Raising a Concern**

### **9.1 Who should concerns be raised with?**

This will depend on the seriousness and sensitivity of the issues involved and who is suspected of the wrongdoing.

Employees should normally raise concerns with their immediate Line Manager in the first instance, a senior leader or the HR Department.

If the concern is about the Headteacher, the concern should be raised with the Chair of the Governing Body.

If the concern is about the Chief Executive Officer, the concern should be raised with the Chair of the Board of Trustees. They will decide how the investigation will proceed. This may include external investigation.

If unsure who to contact, you may call the independent charity Public Concern at Work.

### **9.2. How to raise a Concern**

Concerns can be raised by telephone, in person or in writing. The earlier concerns are expressed, the easier it is to take action. The following information should be provided:

- the nature of the concern and why you believe it to be true;
- the background and history of the concern (giving relevant dates).

Although employees are not expected to prove beyond doubt the truth of their suspicion, they will need to demonstrate to the person contacted that they are acting in good faith and there are reasonable grounds for their concern.

Employees may wish to consider discussing their concern with a colleague first and they may find it easier to raise the matter if there are two (or more) who have had the same experience or concerns.

Employees may invite their trade union, professional association representative or a work colleague to be present for support during any meetings or interviews in connection with the concerns raised.

### **9.3 Reporting Concerns about Examinations**

In compliance with section 5.11 of the JCQ's General Regulations for Approved Centres<sup>1</sup>, the Trust will:

- take all reasonable steps to prevent the occurrence of any malpractice (which includes maladministration) before, during and after assessments have taken place,
- inform the awarding body immediately of any alleged, suspected or actual incidents of malpractice or maladministration, involving a candidate or a member of staff, by completing the appropriate documentation,
- as required by an awarding body, gather evidence of any instances of alleged or

suspected malpractice (which includes maladministration) in accordance with the

<sup>(1)</sup> Reference [www.jcq.org.uk/exams-office/general-regulations/](http://www.jcq.org.uk/exams-office/general-regulations/))

JCQ publication Suspected Malpractice: Policies and Procedures<sup>2</sup> and provide such information and advice as the awarding body may reasonably require

If a member of centre staff involved in the management, administration and / or conducting of examinations (such as exams officer, exams assistant or invigilator), a pupil / student or a member of the public (such as a parent / carer) has a concern or reason to believe that malpractice has or will occur in an examination or assessment, concerns should be raised initially with the relevant staff member with responsibility for oversight of examination administration.

However, there may be times when it may be more appropriate to refer the issue direct to the governing board, most often when the allegation is against the Head of Centre.

### **9.3.1 Examples of malpractice**

Exams related breaches In addition to the centre wide Whistleblowing Policy, this exams-specific policy, includes reference to exams-related breaches including, but not limited to, the following:

- Failure to comply with exam regulations as set out by the Joint Council for Qualifications (JCQ) and its awarding bodies
- A security breach of the examination paper
- Conduct of centre staff which undermines the integrity of the examination
- Unfair treatment of candidates by either giving an advantage to a candidate / group of candidates (e.g. by permitting a candidate an access arrangement which is not supported by appropriate evidence), or disadvantaging candidates by not providing access to the appropriate conditions (providing a 'level playing field')
- Possible fraud and corruption (e.g. accessing the exam paper prior to the exam to aid teaching and learning)
- Abuse of authority (e.g. Headteacher / members of the Senior Leadership Team overriding JCQ and awarding body regulations)
- Other conduct which may be interpreted as malpractice / maladministration

### **9.3.1 Providing Information to Support Concerns**

In order to investigate concerns effectively, the awarding body should be provided with as much information as possible/is relevant, which may include:

- The qualifications and subjects involved,
- The centre involved,
- The names of staff / candidates involved,
- The regulations breached / specific nature of suspected malpractice,
- When and where the suspected malpractice occurred,

- Whether multiple examination series are affected,
- If the issue has been reported to the centre and any outcome,
- How the issue became apparent.

## **10. What the Trust will do**

The Trust will respond to concerns as quickly as possible. Do not forget that testing concerns is not the same as either accepting or rejecting them.

The overriding principle for the Trust will be the public interest. In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

The investigation may need to be carried out under terms of strict confidentiality, i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. In certain cases however, such as allegations of ill treatment of others, suspension from work may have to be considered immediately. Protection of others is paramount in all cases.

Where appropriate, the matters raised may:

- be investigated by the Senior Leadership Team or the Trust Leadership Team or another Senior Leader from another School within the Trust through the disciplinary/grievance process
- be referred to the police;
- be referred to an external auditor;
- be referred and put through established child protection/abuse procedures; form the subject of an independent inquiry.

Within ten working days of a concern being raised, the person investigating the concern will write to the employee raising the concern:

- acknowledging that the concern has been received;
- indicating how the Trust proposes to deal with the matter including any actions taken up to that point;
- supplying information on staff support mechanisms and the name of a “contact officer” who they can liaise with if concerns or issues arise as a consequence of them making a disclosure;
- an estimate of how long it will take to provide a final response and why it will take this long;
- confirming whether further investigations will take place and if not, why not.

The amount of contact between the employee and the designated senior leader considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of information. It is likely that employees will be interviewed to ensure that their disclosure is fully understood.

Any meeting can be arranged away from the workplace, if that is preferable of the employee, and a union or professional association representative or a work colleague may accompany the employee to provide support.

The Trust will do what it can to minimise any difficulties that employees may experience as a result of raising a concern. For instance, if employees are asked to give evidence in criminal or disciplinary proceedings, the Trust will arrange for appropriate advice and support.

Employees need to be assured that disclosures have been properly addressed. Unless there are any legal reasons why this cannot be done, employees will be kept informed of the progress and outcome of any investigation.

## **11. How the matter can be taken further**

This policy is intended to provide all employees of the Trust with an avenue within the Trust to raise concerns. Whilst the Trust cannot guarantee that every employee will receive their desired outcome, the employee's concern will be dealt with fairly and appropriately and it is hoped that the outcome will be satisfactory.

However, if the employee is not happy and feels that they need to take the matter further, they can use the following contacts:

- Trade Unions - e.g. NEU, NASUWT, Unison, GMB etc;
- The Health and Safety Executive (HSE);
- Accord Multi Academy Trust HR Department;
- Solicitor;
- Police;
- Public Concern at Work;
- The Department for Business, Innovation and Skills ([www.gov.uk](http://www.gov.uk));
- Ofsted;
- Ofqual;
- The Department for Education.

If an employee raises concerns outside of the Trust, they should ensure that it is to one of these prescribed contacts. A public disclosure to anyone else could take an employee outside the protection of the Public Interest Disclosure Act and of this policy.

Employees should not disclose information that is confidential to the Trust or to anyone else, such as a client or contractor of the Trust, except to those included in the list of prescribed contacts.

This policy does not prevent employees from taking their own legal advice.

## **12. Recording and Monitoring**

HR will maintain a Trust register containing all concerns that are brought to their attention under this policy. All leaders allocated to look into a concern must ensure the HR Department is provided with sufficient details for the register. HR will report details to the CEO and Trustees as required.

## **13. Data Protection**

The Trust processes personal information/data collected in the application of this Whistleblowing Policy in accordance with its legal obligations set out in the Data Protection

Act 2018 and the General Data Protection Regulations 2016, which are confirmed within the Trust’s Data Protection Policy.

Information/data specifically obtained to address issues raised under this Whistleblowing Policy is held securely and accessed by, and disclosed to, individuals only for the purposes of addressing these issues. Inappropriate access or disclosure of an employee’s personal information/data constitutes a data breach and should be reported in accordance with the Trust’s Data Protection Policy immediately. It may also constitute a matter which will be considered in accordance with the Trust’s Disciplinary Policy.

**14. Conclusion**

The Trust will endeavour to uphold the aims of this policy and wishes to create a culture that is open and transparent and committed to ensuring employees and others who have serious concerns about any aspect of the Trust’s work are able to come forward and voice those concerns without fear.

**15. Review**

The Trust will review this policy on an biennial basis and at any such other time should changes to Employment Legislation or recommended Codes of Practise dictate necessary changes.

**15. Contact Information**

Name	Email / Website:	
HR	<a href="mailto:hr@fulford.york.sch.uk">hr@fulford.york.sch.uk</a>	
Ofsted	<a href="https://contact.ofsted.gov.uk/online-complaints-schools">https://contact.ofsted.gov.uk/online-complaints-schools</a>	0300 123 3155
Ofqual	<a href="https://complaints.ofqual.gov.uk/">https://complaints.ofqual.gov.uk/</a>	0300 303 3346
Department for Education	<a href="http://www.gov.uk/contact-dfe">www.gov.uk/contact-dfe</a>	0370 000 2288
Protect	<a href="https://protect-advice.org.uk/contact-protect-advice-line/">https://protect-advice.org.uk/contact-protect-advice-line/</a>	020 3117 2520