

# WHISTLEBLOWING POLICY

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<b>Document Author:</b>	Tina Smith		
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## Introduction

1. This policy applies to all workers of Sapientia Education Trust ('The Trust'). A **worker** is an employee of the Trust and other individuals performing functions in relation to The Trust, such as volunteers, consultant, agency workers and contractors. All workers are encouraged to use this policy.
2. Allegations of child abuse against teachers and other staff and volunteers will be dealt with in accordance with [Keeping Children Safe in Education](#) (as amended), reported to the Local Authority Designated Officer (LADO) and in line with the specific guidelines outlined in the school's safeguarding policy.
3. It is important to The Trust that any fraud, misconduct or wrongdoing by employees of The Trust is reported and properly dealt with to ensure a safe and supportive working environment for everyone. The Trust therefore encourages all individuals to raise any concerns that they may have about the conduct of others in The Trust or the way in which The Trust is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

## Background

4. The law provides protection for workers who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that the following is being, has been, or is likely to be, committed:
  - a criminal offence
  - a miscarriage of justice
  - an act creating risk to health and safety
  - an act causing damage to the environment
  - a breach of any other legal obligation
  - concealment of any of the above

It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker must not investigate the matter - it is The Trust's responsibility to ensure that an investigation takes place.

5. A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. The [Public Interest Disclosure Act 1998 \(PIDA\)](#) governs whistleblowing. It amends the Employment Rights Act 1996 and protects workers against dismissal or other penalties as a result of making a 'protected disclosure'.
6. The protection is for workers as well as employees. The term worker includes agency teachers and trainee teachers on placement at a school. It applies to both former and existing workers. The term worker does not currently protect individuals that are

self-employed and provide services directly to schools, colleges and local authorities.

7. The Trust encourages workers to raise their concerns under this procedure in the first instance. As a Trust we recognise this can be a difficult and uncomfortable. If a worker is not sure whether or not to raise a concern, they should discuss the issue with their line manager or the HR Director.

## Principles

8. A 'whistle-blower' is a person who raised a genuine concern relating to the matters below. If workers have genuine concerns relating to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) they should report it under this policy. Whistleblowing is the disclosure of information which relates to suspected wrongdoing or dangers at work, this may include:
  - A criminal offence, e.g. fraud
  - Danger to health and safety
  - Risk or actual damage to the environment
  - A miscarriage of justice
  - The company is breaking the law
  - You believe that someone is covering up wrongdoing.
9. 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 their line manager or team meetings as well as 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 escalation of the problem and to prevent them being potentially implicated.
10. This policy should not be used for complaints about an employee's personal circumstances, such as the way they have been treated at work. In these cases, an employee should use the Grievance Procedure; if the matter relates to salary, then the salary review procedures documented in the Pay Policy.
11. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.
12. Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue.
13. No worker will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training

of the worker will not be prejudiced because they have raised a legitimate concern.

14. Victimisation of a worker for raising a qualified disclosure will be a disciplinary offence.
15. If misconduct is discovered as a result of any investigation under this procedure The Trust's disciplinary procedure will be used, in addition to any appropriate external measures.
16. Maliciously making a false allegation is a disciplinary offence.
17. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority, workers should not agree to remain silent. They should report the matter to the line manager, SLT, SET central team, deputy CEO or CEO.
18. 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 procedure.
19. A disclosure will not be protected if:
  - It is made to a body or person not prescribed by legislation
  - The pre-conditions applying to the disclosure are not met (i.e. made in the public interest or reasonable belief in the truth of the information)
  - The whistle-blower is not a "worker" within the meaning of the Act
  - The whistle-blower commits an offence by disclosing information
  - The whistle-blower makes allegations instead of disclosing information

## Procedure

### Stage 1

20. In the first instance, and unless the worker reasonably believes their line manager to be involved in the wrongdoing, or if for any other reason the worker does not wish to approach their line manager, any concerns should be raised with the worker's line manager. If they believe the line manager to be involved, or for any reason does not wish to approach the line manager, then the worker should proceed straight to stage 3.
21. At the initial meeting the line manager should establish that:
  - There is genuine cause and sufficient grounds for the concern.
  - The concern has been appropriately raised via the Whistleblowing Policy.
22. The line manager should ask the worker, to put their concern(s) in writing, if they have not already done so. If the worker is unable to do this the line manager will take down a written summary of the concerns and provide them with a copy after the meeting. The line manager should make notes of the

discussion with the worker. The worker's letter and/or line manager's notes should make it clear that the employee is raising the issue via the Whistleblowing Procedure and provide:

- The background and history of the concerns.
- Names, dates and places (where possible).
- The reasons why the worker is particularly concerned about the situation.

The worker should be asked to date and sign their letter and/or the notes of any discussion. The line manager 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 or notes become evidence in other proceedings.e.g. a disciplinary hearing.

23. The line manager should follow the policy as set out above and in particular explain to the employee:

- Who they will need to speak to, to determine the next steps (e.g. Headteacher, the Trust Central Team, deputy CEO or CEO).
- What steps they intend to take to address the concern.
- How they will communicate with the worker during and at the end of the process. It should be noted that the need for confidentiality may prevent the Trust giving the worker specific details of any necessary investigation or any necessary disciplinary action taken as a result.
- That the employee will receive a written response as soon as is reasonably practicable.
- That their identity will be protected as far as possible but should the investigation into the concern require the worker to be named as the source of the information, that this will be discussed with the worker before their name is disclosed.
- That the Trust will do all that it can to protect the employee from discrimination or victimisation.
- That the matter will be taken seriously and investigated immediately.
- That if the employee's concern, though raised as a genuine concern, is not confirmed by the investigation, no punitive action will be taken against them.
- If clear evidence is uncovered during the investigation that they have made a malicious or vexatious allegation, disciplinary action may be taken against them.
- The investigation may confirm their allegations to be unfounded in which case the Trust will deem the matter to be concluded unless new evidence becomes available.

## **Stage 2**

24. The line manager will arrange an investigation into the matter (either by investigating the matter themselves or immediately passing the issue to the HR Director). The investigation may involve the worker and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. The worker's statement will be taken into account, and they will be asked to comment on any additional evidence obtained.
25. The investigating officer will then report to the Headteacher, the Trust central team, deputy CEO or CEO, who will take any necessary action, including reporting the matter to the Trust Board and/or any appropriate government department or regulatory agency. If disciplinary action is required, the investigating officer will report the matter to the HR Director. On conclusion of any investigation, the worker will be told the outcome of the investigation and what The Trust has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.
26. Following the initial meeting with the employee, the line manager should consult with the Headteacher, the Trust central team, deputy CEO or CEO 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.
27. It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, line managers should take the following factors into account:
  - The seriousness of the issue(s) raised
  - The credibility of the concern (s)
  - The likelihood of confirming the allegation(s) from attributable sources.
28. 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 an external auditor
  - Form the subject of an independent inquiry
29. Line Managers should have a working knowledge and understanding of other Trust policies and procedures, e.g. grievance, disciplinary, harassment, child protection to ensure that concerns raised by employees are addressed via the appropriate procedure/process.

### **Stage 3**

30. If the worker is concerned that their line manager is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the board, they should inform the

Headteacher or the Trust central team, who will arrange for another Investigator to review the investigation carried out, make any necessary enquiries and make their own report to the Headteacher or the Trust central team as in stage 2 above. If for any other reason the worker does not wish to approach their line manager, they should also in the first instance contact the Headteacher or Trust central team. Any approach to the Headteacher or Trust central team will be treated with the strictest confidence and the worker's identity will not be disclosed without their prior consent. Where the concern is about the actions of the Headteacher, the worker should report this to the Chair of the Trustees through the COO, deputy CEO or CEO of the Trust.

31. Within ten working days of a concern being received, the manager 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
- Informing the employee whether any initial enquiries have been made
- Informing the employee whether further investigations will take place, and if not, why not
- Letting the employee know when they will receive further details if the situation is not yet resolved.

#### **Stage 4**

32. If on conclusion of stages 1, 2 and 3 the worker reasonably believes that the appropriate action has not been taken, they should report the matter to the proper authority. The legislation sets out a number of bodies to which qualifying disclosures may be made. These include:

- HM Revenue & Customs
- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Competition and Markets Authority
- the Health and Safety Executive
- the Environment Agency
- the Independent Police Complaints Commission; and
- The Serious Fraud Office.

## **Safeguards**

### **Harassment or victimisation**

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

34. 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.

## Confidentiality

35. We hope that workers will feel able to voice whistleblowing concerns openly under this Policy. The Board of Trustees will make every effort to protect an employee's identity if confidentiality is requested.
36. Identity will be protected as far as possible but should the investigation into the concern require the worker to be named as the source of the information, this will be discussed with the worker before their name is disclosed.

## Anonymous Allegations

37. Workers are encouraged to put their name to an allegation. Proper investigation may be more difficult or impossible if we cannot obtain further information, and it is also more difficult to establish whether allegations are credible. Anonymous allegations will be considered at the discretion of the line manager. In exercising the discretion, the factors to be taken into account would include:
- The seriousness of the issues raised
  - The credibility of the concern
  - The likelihood of confirming the allegation from attributable sources

## Untrue Allegations

38. If an employee makes an allegation where they have a genuine concern, but it is not confirmed by the investigation, no action will be taken against that employee. If, however, we conclude that an employee has made malicious or vexatious allegations, or with a view to personal gain, disciplinary action may be taken against that employee.

## Unfounded Allegations

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

## Support For Employees

40. 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 any employee(s) subject to investigation.

## Raising Concerns Outside of the Trust

41. The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases the worker should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for the worker to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. Workers are strongly encouraged to seek advice before reporting a concern to anyone external. If a worker is not satisfied with the Board of Trustees' response, they may raise the matter externally:

- Protect – Tel. 02031172520
- A recognised trade union
- A senior local authority officer
- The external auditor
- Relevant professional bodies or regulatory organisations
- A solicitor.

42. A qualifying disclosure may be made to one of six types of recipients. These are:

- An employer
- A legal advisor
- A Minister of the Crown (in certain circumstances)
- An MP
- A regulatory body (referred to as a prescribed person)
- A third party (e.g. a member of the press)

43. The test for justifying disclosure to each recipient is set progressively higher according to the distance between the person to whom the disclosure is made and the main subject or object of the complaint. For example, the test for justifying disclosure to the press will be far harder than the test for justifying disclosure to an employer.

44. The law requires certain conditions to be met before a worker blows the whistle to an authorised recipient. These conditions become progressively more onerous the greater the distance between the recipient and the person or organisation complained of.

45. The manager should stress to the employee that if they choose to take a concern outside the Trust, it is the employee's responsibility to ensure that confidential information is not disclosed, e.g. confidential information, in whatever format, is not handed over to a third party.

46. Any provision in a settlement or compromise agreement to stop a worker making a protected disclosure is void.

## Whistleblowing for Exam Malpractice

47. Workers have a duty to report any concerns they have in relation to conduct with examinations at any Trust exam centre.
48. In compliance with section 5.11 of the [JCQ's General Regulations for Approved Centres](#), each examination centre within 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 [JCQ publication Suspected Malpractice: Policies and Procedures](#) and provide such information and advice as the awarding body may reasonably require.
49. Members of the public are not protected by PIDA, but the awarding body will make every effort to protect their identity if that is what they wish, unless the awarding body is legally obliged to release it. Alternatively, a worker could consider making a disclosure to Ofqual as a prescribed body for whistleblowing to raise a concern about wrongdoing, risk or malpractice.
50. If exam malpractice or maladministration is discovered as a result of any investigation under this procedure The Trust's disciplinary procedure will be used, in addition to any appropriate external measures.

### **Reporting**

51. If a worker involved in the management, administration and/or conducting of examinations (such as exams officer, exams assistant or invigilator), a 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 normally be raised initially with the Headteacher.
52. 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 what the outcome was
- How the issue became apparent

### **Examples of Exam Malpractice**

53. This section of the 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 staff which undermines the integrity of the examination
- Possible fraud and corruption (e.g. accessing the exam paper prior to the exam to aid teaching and learning)
- Abuse of authority (e.g. overriding JCQ and awarding body regulations)
- 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')
- Other conduct which may be interpreted as malpractice/maladministration

## **Further Advice**

Support, information and advice is available from:

- Trade unions: Union members may contact their trade union representative or employee assistance helplines for further advice and support regarding discrimination, harassment or victimisation.
- If you would like to seek support from the Trust's employee assistant helpline, they provide a confidential counselling and information service which is available to Trust Employee's 24/7. The service is free to use and is entirely independent.

All employees can contact Care First for support. The Care first EAP service can

be accessed via the Sapientia Benefits online platform at [www.SapientiaBenefits.co.uk](http://www.SapientiaBenefits.co.uk) and by phone on 0808 168 2143.

- Protect - Protect (previously known as 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. <https://protect-advice.org.uk/>
- ACAS has a confidential, free helpline for anyone who needs employment law or workplace advice. They are open Monday – Friday 08.00-18.00 – 0300 123 1100.
- You can also access free support and advice from The Education Helpline. You can find the details [here](#).

## Related policies

- Grievance policy
- Pay policy
- EDI policy
- Disciplinary policy