

	<b>AAT WHISTLEBLOWING POLICY</b>	
	<b>Last reviewed:    October 2022</b>	<b>Next Review: as HCC update</b>

This policy was issued by HfL on behalf of Hertfordshire County Council in **December 2021** after consultation with Professional Associations/Trade Unions and HfL subsequently recommended it for adoption.

**Update: October 2022**

**Update added to Section 9.4 after the bullet points listed:-**

The NSPCC’s ‘What you can do to report abuse’ dedicated helpline is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their school or college. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

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## 1. Introduction

The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the trust to voice those concerns and feel secure in doing so.

It is important that any fraud, misconduct or wrongdoing is reported and properly dealt with. The Trust and the CEO/Headteacher encourage all individuals to raise any concerns they may have about the conduct of others or the way in which the trust or a setting within the trust is run.

The Trust and the CEO/Headteacher are committed to the principles of honesty and integrity. A culture of openness and accountability is critical to ensuring these values are authentically lived by.

This policy applies to all employees, workers, agency staff, contractors, service providers, volunteers, and governors and any other officers of the Trust.

This policy does not form part of any employee's contract of employment, and it may be amended at any time.

## 2. Scope

If an employee's concern relates to how they have been treated this should be raised under the grievance or bullying and harassment policies.

The whistleblowing policy will not replace any existing policies or procedures. If misconduct is discovered as a result of any investigation under this policy the trust's disciplinary policy will be used.

The Trust and the CEO/Headteacher encourage individuals to disclose any concerns they may have regardless of whether they are covered by this or another policy.

## 3. What is whistleblowing?

Whistleblowing means the reporting of information which relates to actual or suspected wrongdoing. This is called a "qualifying disclosure".

Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage to the environment
- Deliberate attempt to conceal any of the above

If a worker is going to make a disclosure it should be made to the employer first, or if they feel unable to use the organisations procedure the disclosure should be made to a prescribed person, so that employment rights are protected.

It is not necessary for a whistle blower to have proof of such an act for the protections of this policy to apply.

Potential whistle-blowers are encouraged to seek support from a senior manager or their trade union representative if they are unsure whether to make a disclosure or to access support in making a disclosure, regardless of whether it is qualifying or not.

#### **4. Protections for whistle blowers**

This policy has been written to take account of the Part IVA of the Employment Rights Act 1996 which protects workers making protected disclosures.

A qualifying disclosure made to the worker's employer is a protected disclosure. A qualifying disclosure made by a worker under this policy will also be a protected disclosure.

A whistle blower who makes a protected disclosure has the right not to be dismissed (if they are an employee) or subjected to any other detriment, because they have made a protected disclosure.

Dismissing, or subjecting a whistle blower to any other detriment for raising a protected disclosure will be a disciplinary offence.

Neither the Trust nor the CEO/Headteacher will decide that anyone should cease to work at a setting within the trust on the basis that they have made a qualifying disclosure in accordance with the law and this policy.

Whistle blowers may seek support and advice from organisations such as the whistle blowing charity Protect (<https://protect-advice.org.uk> / 020 3117 2520) or ACAS ([www.acas.org.uk](http://www.acas.org.uk)).

#### **5. Obligations for the whistle blower**

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

Whistleblowing to an external agency without first using the procedure below may be considered a breach of the Trust's Code of Conduct.

It is not appropriate to whistle blow to the media except in limited circumstances and where those circumstances do not apply such whistleblowing may be considered gross misconduct.

Maliciously making a false allegation is a disciplinary offence.

#### **6. Confidentiality**

The Trust and the CEO/Headteacher encourage individuals to voice their concerns openly. If anyone wishes to raise concerns confidentially, they will make every effort to keep their identity secret.

The person(s) to whom the disclosure is made will consult with the whistle blower before divulging their identity to any party, including an investigator.

The Trust and the CEO/Headteacher do not encourage anonymous disclosures as this may make it harder to establish the credibility of an allegation and may make investigation difficult or impossible. Anonymous concerns will be taken seriously and investigated as far as is possible under this policy.

## **7. The Trust's commitment**

Any matter raised under this policy and procedure will be investigated thoroughly, promptly and confidentially.

Whilst the person carrying out the investigation will aim to keep the whistle blower informed of the progress of the investigation and likely timescales, sometimes the requirement for confidentiality will prevent full information about the investigation and any consequential disciplinary action from being disclosed.

## **8. Obligations for the Trust**

It is a requirement under the Academies Financial Handbook that academy trusts must have procedures for whistleblowing, and trustees must agree the whistleblowing procedure. The trust will appoint at least one trustee and one member of staff who other staff can contact to report concerns and must ensure all staff are aware of the process and how concerns will be managed.

The Academies Financial Handbook sets out a requirement that the board of trustees must notify the Education and Skills Funding Agency (ESFA) as soon as possible, of any instances of fraud, theft and/or irregularity exceeding £5k individually, or £5k cumulatively in any financial year. Unusual or systematic fraud, regardless of value, must also be reported.

## **9. Whistleblowing procedure**

### **9.1. Stage 1 – Disclosure**

The whistle blower should initially raise their concern with their line manager. They may do this orally or in writing. The line manager should inform the Headteacher of the concern.

If the concern relates to the line manager or any person to whom they report (other than the Headteacher) the whistle blower should raise the issue with the Headteacher.

If the concern relates to the CEO/Headteacher, the whistle blower should raise this with the named Trustee.

### **9.2. Stage 2 – Investigation**

The CEO/Headteacher will arrange an investigation into the concerns raised, unless the concern relates to the CEO/Headteacher, in which case the investigation will be arranged by the named Trustee. This will take place as soon as is reasonably practicable.

The investigation may involve the whistle blower and other individuals involved meeting with the investigator and giving a written statement.

At any investigatory meetings the whistle blower is entitled to be accompanied by a recognised trade union representative or a work colleague.

### **9.3. Step 3 – Report to CEO/Headteacher/Trustees**

The investigator will report to the person who arranged the investigation before any further action is taken. That person will decide on potential outcomes including, but not limited to:

- invoking the Trust's disciplinary process, or other relevant policy
- referral to the police, government department or regulatory agency
- no further action.

On conclusion of any investigation, the whistle blower will, as far as is practicable and where it is reasonable to do so, be told the outcome of the investigation and what the CEO/Headteacher/named trustee has done, or proposes to do, about it. If no action is to be taken, the reason for this will be explained.

#### **9.4. Step 4 – Escalation.**

If, on conclusion of stages 1, 2 and 3 the whistle blower believes that the appropriate action has not been taken, they should report the matter to the proper authority. The Public Interest Disclosure (Prescribed Persons) Order 2014 (as amended) sets out a number of bodies prescribed by the Secretary of State to which qualifying disclosures may be made. In order for the report to one of these bodies to be a protected disclosure, the whistle blower must reasonably believe that the matter falls within the matters covered by that body. The whistle blower must also reasonably believe that the information disclosed, and any allegations contained in it, are substantially true.

These bodies include:

- the Financial Conduct Authority (formerly the Financial Services Authority)
- the Health and Safety Executive
- the Environment Agency
- Her Majesty’s Chief Inspector of Education Children’s Services and Skills
- the Secretary of State for Education
- the Office of Qualifications and Examinations Regulation.

A full list can be obtained from the charity, Protect or the BEIS (Department for Business, Energy and Industrial Strategy) list on the [www.gov.uk](http://www.gov.uk) website. The DBEIS list contains a description of the type of matter covered by each prescribed body. Alternatively, a whistle blower may contact their professional association or trade union representative for guidance.

The NSPCC’s ‘What you can do to report abuse’ dedicated helpline is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their school or college. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)

#### **10. Data Protection**

When an individual makes a disclosure, the CEO/Headteacher/named trustee will process any personal data collected in accordance with the Trust’s data protection policy. Data collected from the point at which the individual makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

#### **11. Contacts**

**The trust’s appointed trustee for this purpose is: Lin Keen, Chair of Trustees**

The independent whistleblowing charity **Protect**

Helpline [020 3117 2520](tel:02031172520)

E-mail: [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)