



## The Exceptional Education Trust

# Whistleblowing Policy

Type of Policy (tick one)                      MAT Policy to adopt in full ✓  
MAT Policy to use in conjunction with Local Academy LGB Policy

Review Frequency:                              Every three years or in response to change in legislation or Government Policy;

MAT Approval Body:                            Full Board Directors

MAT Director Responsible:

Local Governor Responsible:                Not applicable

Date of Last MAT Review:                    1<sup>st</sup> June 2020

Date of Next MAT Review:                    1<sup>st</sup> June 2023

Other People:                                    CEO and Responsible Officer: Juan Hernandez  
COO: Rob Pittard

Appendices:                                    A: Process for Investigation and Outcome

Related Legislation:                            Academies Financial Handbook (sets out the requirement)  
Government Guidance on Whistleblowing  
Public Interest Disclosure Act 1998  
Enterprise and Regulatory Reform Act 2013

To be Read in Conjunction  
with Exceptional MAT or Academy  
Policy:    Safeguarding and Child Protection Policy  
Complaints Policy/Procedure  
Staff Grievance Policy

Signed by the Chair of Board of Directors on behalf of    Date:  
The Exceptional Education Trust:

No of Pages in addition  
to this Cover Page:

# Whistleblowing Policy

## **1. Introduction**

1.1 The purpose of this policy is to ensure that individual Academies within The Exceptional Education MAT have clarity in relation to whistleblowing.

## **2. Aims**

2.1 The aim of the policy is to;

- ensure that all staff feel confident in raising serious concerns and to question and act upon concerns about practice as soon as possible in the knowledge that their concerns will be taken seriously and investigated and that their confidentiality will be respected.
- ensure there are avenues for any concerns raised and that there is awareness of how to pursue them if not satisfied with the response,
- reassure staff that they will be protected from possible reprisals or victimisation if they raise a legitimate concern in good faith through the steps set out in the policy even if it turns out to be mistaken (though vexatious or malicious concerns may be considered a disciplinary issue).
- ensure that when concerns are raised, a response to concerns are received through clear set out procedures for how the trust will respond to such concerns.

2.2 In so doing to protect the good reputation of The Exceptional Education Trust and its Academies to limit any complaint against the Trust or the individual Academies.

## **3. Responsibilities**

3.1 The Multi Academy Trust Board of Directors is responsible for ensuring that the Local Governing Bodies of the Academies within the MAT have this Whistleblowing Policy in place and that there is fairness and consistency across the MAT Academies.

3.2 The Local Governing Body (LGB) of each academy is responsible for adopting this Whistleblowing policy; this may be delegated to a sub-committee of the full LGB and is named on the cover page for this policy if this is the case. In addition, it is the responsibility of the LGB to act consistently and fairly when issues of whistleblowing arise. If there is a named Local Governor who is responsible for this policy, he or she is named on the cover page for this policy.

3.3 The CEO of the EET has overall responsibility for the Whistleblowing Policy and is the Responsible Officer named on the Cover Page of this document. The day to day maintenance and operation of the policy will be undertaken by the Chief Operating Officer (COO), who maintains a record of concerns raised and outcomes (but in a form which does not endanger the confidentiality of the whistleblower) and will report as necessary to the Directors of the Trust.

3.4 The Principal of each academy is responsible for ensuring that working arrangements allow for the full implementation of this policy, that all employees are aware of the policy and related procedures and comply with legal requirements.

3.5 All Trust Staff are responsible for ensuring their familiarity with and understanding of the Whistleblowing policy and comply with it when carrying out their duties. Where the policy or related procedures are not understood, it is the responsibility of staff to direct questions to the Principal.

## **4. Policy Statement**

4.1 This policy is intended to cover concerns made that report wrongdoing where it 'is in the public interest' to do so. Examples include but are not limited to:

- conduct which is a criminal offence or a breach of law, for example fraud or corruption
- students' or staff's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice

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- the unauthorised use of public funds
- failure to comply with a legal obligation or statutory requirement
- attempts to cover up the above, or any other wrongdoing
- other unethical conduct

4.2 A whistleblower is a person who raises a concern relating to the points in 4.1 above.

4.3 The whistleblowing policy does not replace the following:

- Child Protection Safeguarding reporting
- Complaints Procedure
- Disciplinary Policy
- Grievance Procedure

4.4 Not all concerns about the Trust count as whistleblowing. For example, personal staff grievance such as bullying or harassment do not usually count as whistleblowing. If something affects a staff member as an individual, or relates to an individual employment contract, this is likely to be a grievance. When staff have a concern, they should only consider raising concerns through our Whistleblowing arrangements if:

- There are genuine reasons why the policies and procedures listed in 4.3 cannot be used;
- There is reason to believe that these policies are failing or are not being properly applied
- there is a public interest aspect

4.5 Employees are often the first to realise that there may be something seriously wrong within the academy. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the academy. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

4.6 The academy is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the academy's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.

4.7 This whistle-blowing policy is intended to encourage and enable employees to raise serious concerns within the academy rather than overlooking a problem or 'blowing the whistle' outside.

4.8 The policy applies to all employees and those contractors working for the academy on school premises, for example, agency staff, consultants, etc. It also covers suppliers and those providing services under a contract with the academy in their own premises, for example, care homes.

4.9 These procedures are in addition to the academy's complaints procedures and other statutory reporting procedures applying to directorates. Staff are responsible for making service users aware of the existence of these procedures

4.10 This policy complies with our funding agreement and articles of association

### 5. Safeguards

5.1 The academy recognises that staff may be worried about reporting for a number of reasons:

- fear of reprisal or victimisation (e.g. loss of job)
- too much to lose (reputation, damage to career etc)
- feelings of disloyalty
- worries about who may be involved
- the whistleblower may have no proof, only suspicions
- fear of repercussions if there is no evidence or you are proved wrong

5.2 The academy is committed to good practice and high standards and wants to be supportive of employees. It recognises that the decision to report a concern can be a difficult one to make. If what the whistleblower is saying is true, they have nothing to fear because they will be doing their duty to their employer and those for whom you are providing a service.

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- 5.3 The academy will not tolerate any harassment or victimisation (including informal pressures) from their colleagues, peers, managers or from external sources, and will take appropriate action to protect whistleblowers when they raise a concern in good faith.
- 5.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect the whistleblower.
- 5.5 UK law protects employees from dismissal, harassment or victimisation if such treatment occurs as a result of having made a whistle-blowing disclosure considered to be in the public interest. In addition to the employer's liability, the individual who subjects the employee to such treatment may also be held personally liable.

### **6. Confidentiality**

- 6.1 All concerns will be treated in confidence and the academy will keep the identity of the whistleblower confidential if they so wish. At the appropriate time, however, the whistleblower may need to come forward as a witness.

### **7. Anonymous Allegations**

- 7.1 This policy encourages staff you to put their name to the allegation whenever possible.
- 7.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the academy.
- 7.3 In exercising this discretion, the factors to be taken into account would include:
  - the seriousness of the issues raised
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources

### **8. Untrue Allegations**

- 8.1 If a person makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, they make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against them.

### **9. How to Raise a Concern**

- 9.1 Before taking action, staff should consider the examples in 4.1 when deciding whether their concern is of a whistleblowing nature and consider whether the incident(s) was illegal, breached statutory or Trust procedures, put people in danger or was an attempt to cover any such activity up.
- 9.2 As a first step, the whistleblower should normally raise concerns with their immediate manager or their superior or one of the Senior Leaders. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the whistleblower believes that management or leadership is involved the following should be approached:
  - Principal in person or send a confidential letter detailing concerns;
  - Chair of Governors via a confidential letter addressed to the academy. The letter will be forwarded for investigation;
  - The CEO of the Exceptional Education Trust
  - The Chair of the Board of Directors
- 9.3 Concerns should be made in writing wherever possible and the written report should include the following information:
  - Names of those committing wrongdoing
  - Dates, places and as much evidence and context as possible
  - the background and history of the concern

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- the reason for the concern about the situation.
  - staff raising a concern should also include details of any personal interest in the matter.
- 9.4 The earlier the concern is expressed the easier it is to take action.
- 9.5 Although the whistleblower is not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for concern.
- 9.6 A whistleblower may wish to consider discussing their concern with a colleague first and it may be easier to raise the matter if there are two (or more) whistleblowers who have had the same experience or concerns.
- 9.7 A whistleblower may invite their trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns raised.

### **10. How the Academy will Respond**

- 10.1 The academy will respond to the concerns of the whistleblower, who should understand that testing out their concerns is not the same as either accepting or rejecting them.
- 10.2 Where appropriate, the matters raised may:
- be investigated by management, officers from the academy's Audit, Fraud and Risk Division, or through the disciplinary process
  - be referred to the police or other appropriate agency such as Her Majesty's Revenue and Customs (HMRC) or the United Kingdom Borders Agency (UKBA)
  - be referred to the academy's external auditor, the Audit Commission
  - form the subject of an independent inquiry.
- 10.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the academy will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.
- 10.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 10.5 Within ten working days of a concern being raised, the responsible person will write to the whistleblower:
- acknowledging that the concern has been received
  - indicating how the academy proposes to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - indicating whether any initial enquiries have been made
  - supplying the whistleblower with information on staff support mechanisms, and
  - explaining whether further investigations will take place and if not, why not.
- 10.6 The amount of contact between the officers considering the issues and the whistleblower will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the academy will seek further information from the whistleblower.
- 10.7 Where any meeting is arranged, off-site if the whistleblower wishes, they can be accompanied by a union or professional association representative or a friend.
- 10.8 The academy will take steps to minimise any difficulties the whistleblower may experience as a result of raising a concern. For instance, if they are required to give evidence in criminal or disciplinary proceedings the academy will arrange for them to receive advice about the procedure.
- 10.9 The academy accepts that the whistleblower needs assurance that the matter has been properly addressed. Thus, subject to legal constraints, the academy will inform them of the outcome of any investigation.

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## **11. How the Matter can be Taken Further**

11.1 This policy is intended to provide the whistleblower with an avenue within the academy and the Trust to raise concerns. The Trust hopes any whistleblower will be satisfied with any action taken. If they are not, and if they feel it is right to take the matter outside the academy, the following are possible contact points:

- Protect (formerly Public Concern at Work). Tel: 020 7404 6609, a registered charity whose services are free and strictly confidential
- the external auditor
- their trade union
- the local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police
- The Children's Commissioner for England
- The NSPCC (National Society for the Prevention of Cruelty to Children)
- Secretary of State for Education
- Office of Qualifications and Examinations Regulation (Ofqual)
- Her Majesty's Chief Inspector of Education, Children's Services and Skills

11.2 The matter also may be referred to the local ombudsman if they generally do not take action until the matter has been dealt with internally first. They can be contacted on

The Local Government Ombudsman ([www.lgo.org.uk/contact-us](http://www.lgo.org.uk/contact-us))

11.3 If the whistleblower does take the matter outside the academy, they should ensure that they do not disclose confidential information.

**11.4 Whistleblowers should bear in mind that employees are not to report any academy related issues to the media – to do so may be considered a breach of the academy's Disciplinary and Code of Conduct.**

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## APPENDIX 1A Process for Investigation and Outcome (to be read in conjunction Section 10)

<b>Process for Investigating a Concern</b>	
When a concern is received by the headteacher/ trustee/other named person (the recipient):	
<b>1</b>	Meet with the person raising the concern within a reasonable time. The person raising the concern may be joined by a trade union or professional association representative
<b>2</b>	Get as much detail as possible about the concern at this meeting and record the information. If it becomes apparent the concern is not of a whistle-blowing nature, the recipient should handle the concern in line with the appropriate policy/procedure
<b>3</b>	Reiterate, at this meeting, that they are protected from any unfair treatment or risk of dismissal as a result of raising the concern. If the concern is found to be malicious or vexatious, disciplinary action may be taken (see section 6 of this policy)
<b>4</b>	Establish whether there is sufficient cause for concern to warrant further investigation. If there is: <ul style="list-style-type: none"> <li>○ The recipient should then arrange a further investigation into the matter, involving the [headteacher and/or chair of trustees - amend to reflect your approach], if appropriate. In some cases, they may need to bring in an external, independent body to investigate. In others cases, they may need to report the matter to the police</li> <li>○ The person who raised the concern should be informed of how the matter is being investigated and an estimated timeframe for when they will be informed of the next steps</li> </ul>

<b>Outcome of the investigation</b>	
	Once the investigation (whether this was just the initial investigation of the concern, or whether further investigation was needed) is complete, the investigator will prepare a report detailing the findings and confirming whether or not any wrongdoing has occurred. The report will include any recommendations and details on how the matter can be rectified and whether or not a referral is required to an external organisation, such as the local authority or police.
	They will inform the person who raised the concern of the outcome of the investigation, though certain details may need to be restricted due to confidentiality.
	Beyond the immediate actions, the principal, trustees and other staff if necessary will review the relevant policies and procedures to prevent future occurrences of the same wrongdoing. Whilst we cannot always guarantee the outcome sought, we will try to deal with concerns fairly and in an appropriate way.