

# **Inspire Partnership Multi Academy Trust Whistleblowing Code of Practice**



**Policy Review Date – Sept 2017**

**Date of Next Review – Sept 2019**

**Personnel Responsible – Chief Operating Officer**

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## **1. Introduction**

The Directors of Inspire Partnership Multi Academy Trust have approved this Policy and continue to remain committed to the highest possible standards of conduct. Employees who have concerns about suspected wrongdoing within the Trust or member academies are encouraged to come forward and report those concerns.

This process is commonly referred to as “whistleblowing” and the aim of this Policy is to give detailed advice and reassurance to persons who wish to “blow the whistle” by reporting wrongdoing to those who can make a difference. By knowing about wrongdoing at an early stage, the Trust has the chance to take necessary steps to safeguard its interests.

This Policy acknowledges and incorporates the specific statutory rights and protection given to employees by the Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013, which applies to certain kinds of protected disclosure termed “qualifying disclosure” (see Section 5 below).

The whistleblowing policy requires all directors, governors and staff to act responsibly to uphold the reputation of the trust and its member schools and to maintain public confidence.

Employees must act in the public interest when making a disclosure and have a reasonable belief that the information disclosed tends to show that wrongdoing has occurred, is occurring or is likely to occur in the future.

The Directors, Local Governing Body and Senior Staff (if appropriate) will consider the information received from a whistleblowing disclosure. However, the decision as to whether or not to investigate, and the extent of that investigation, will remain with the Directors and/or Local Governing Body. If any investigation does take place, employees will be expected to co-operate fully with that investigation.

## **2. Scope – Who the Policy Applies To**

This Policy applies to all employees working for Inspire Partnership Multi Academy Trust.

This Policy also applies to the Trust’s Directors, Governors, volunteers and contractors working for or within all academies/schools within the Trust on any premise e.g. self-employed and agency staff, supply teachers, building maintenance contractors etc. All references to employees shall, for the purposes of this Policy, be deemed to include such Trust Directors, School Governors, volunteers and contractors, to enable them to raise any concerns about suspected wrongdoing within the Trust or member academies.

The provisions of this Policy are not directly available to members of the public. Members of the public who wish to raise a concern about any aspect of the Trust’s work, including wrongdoing, must follow the Complaints Procedure.

### **3. Aims of the Policy**

The aim of this Policy is to provide;

- support to employees in the internal reporting of suspected wrongdoing in a safe and constructive manner;
- avenues for employees to raise concerns about suspected wrongdoing and to receive feedback on any action taken by the Trust/Academy/School in response to those concerns;
- opportunities for employees to take the matter further if they are dissatisfied with the Trust/Academy/School's response to their concerns by identifying ways to report concerns to the appropriate regulator or outside body.
- reassurance to employees that, provided they disclose their concerns appropriately and in accordance with this Policy, they will, provided their disclosure is a "qualifying disclosure", be protected from suffering a detriment in their employment (including dismissal).

### **4. Responsibilities**

**The Directors and/or Local Governing Body must;**

- treat all disclosures in confidence
- seek advice from their HR provider with regard to the application of this Policy
- provide support to employees making whistleblowing disclosures where they consider the employee has a reasonable belief that the information disclosed is both accurate and in the public interest.
- consider fully whether to investigate any whistleblowing disclosures made and if it is decided that an investigation is required ensure that it is undertaken properly and objectively.
- inform the employee making the whistleblowing disclosures of the progress being made with any subsequent investigation (or provide a full explanation as to why an investigation will not be taking place). It is not necessary to provide detailed information which may breach the confidentiality of the investigation but rather provide reassurance that the investigation will reach an appropriate outcome.
- where a whistleblowing disclosure is a "qualifying disclosure", protect the employee making the disclosure from suffering any detriment in their employment (including dismissal) such as harassment or victimisation from any other manager or employee because the employee has made the disclosure.
- where a whistleblowing disclosure is a "qualifying disclosure", take all possible steps to protect the employee making the disclosure from suffering any detriment in their employment by other parties outside the School with an interest in the concerns being raised because the employee has made the disclosure.

**The Headteacher/CEO will;**

- maintain a secure and confidential record of all whistleblowing disclosures and the outcomes reached from the investigations.
- refer all whistleblowing disclosures received to the Chair of the Governing Body and support the Governing Body in meeting their responsibilities under this Policy. If appropriate, whistleblowing disclosures may be referred to the Trust Chair of Directors

- make employees (and contractors/agency workers) aware of the existence of this Policy.

### **Employees should;**

- report all concerns about suspected wrongdoing within the Trust/Academy/School (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.
- put their name to any whistleblowing disclosures made.
- fully participate in any investigation following a whistleblowing disclosure made by them.

### **Inspire Partnership Multi Academy Trust/HR will;**

- provide support and advice to the School in reviewing and implementing this Policy as required.

## **5. Disclosures**

The Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013, protects workers who make a “qualifying disclosure” from dismissal, selection for redundancy or from being subjected to any other detriment in employment as a result of making that “qualified disclosure”.

Whether a whistleblowing disclosure made by an employee is a “qualifying disclosure” under the Employment Rights Act 1996 (as amended by the Protection from Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013) depends upon the following:

1. Whether that whistleblowing disclosure is made in the public interest;
2. Whether the employee has a reasonable belief that the information disclosed tends to show that suspected wrongdoing has occurred, is occurring or is likely to occur in the future;
3. Whether the information disclosed falls into one of the six categories of wrongdoing set out in the Act;
4. Whether the employee has complied with the specific requirements for that category of wrongdoing (see A below);
5. The person or organisation the employee contacts to raise their concern.

A “qualifying disclosure” is a concern which falls into one of six categories of wrongdoing set out in the legislation, provided that the specific requirements for that category of wrongdoing are met in that the concern is raised in the correct manner to the proper person or organisation. The six categories are:

- Criminal offences – e.g. theft, fraud, corruption, sexual or physical abuse of pupils;
- Failure to comply with legal obligations – e.g. a breach of a statutory duty, Standing Orders or Financial Regulations and other statutorily required policies;
- Miscarriage of justice;
- Risks to Health & Safety including those to pupils, employees and the public;
- Damage to the environment;
- Deliberate attempt to conceal any of the above.

The specific requirements for each of these categories of wrongdoing are different for each category.

Whilst the Trust would wish employees to raise any concerns they have about wrongdoing within the academy, there are circumstances in which a concern can be raised outside the academy. If, however, an employee's disclosure does not meet the statutory requirements of a "qualifying disclosure", whether raised internally or externally, they will not be able to rely upon the protection of the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998 and the Enterprise and Regulatory Reform Act 2013

The Trust/Academy/School will also investigate concerns under this Policy which relate to improper conduct falling below established standards and practices.

Where an employee raises concerns which relate to their own employment with the Trust, those concerns are not likely to meet the test of being in the public interest and therefore they should not be raised through this Policy but rather through the Grievance Procedure. Similarly this Policy is intended to cover concerns that fall outside the scope of the Grievance Procedure and therefore you do not need to raise a grievance in order to disclose a concern about suspected wrongdoing.

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

The Trust recognises that employees may wish to seek advice from their Trade Union representative, if applicable, or an advisory body such as Public Concern at Work, before raising a concern about suspected wrongdoing. Public Concern at Work is a charity which provides free support to both organisations and individuals with regard to whistleblowing issues.

Concerns may be raised verbally or in writing. The Trust would encourage employees to put their concerns in writing using the following format:

- the background and history of the concern (giving relevant dates);
- the reason why the employee is particularly concerned about the situation.

It should be noted that often the earlier a concern is expressed, the easier it is to take appropriate action.

In all circumstances, employees should make it clear that they are raising their concerns about suspected wrongdoing under this Policy.

The Trust does not expect employees to prove that the suspected wrongdoing has occurred, is occurring or is likely to occur in the future but they will need demonstrate that they have sufficient grounds for their concern and that the information disclosed tends to show the suspected wrongdoing.

The Trust also encourages employees to put their names to any concerns they raise. If an employee expresses concerns about suspected wrongdoing anonymously, their disclosure is much less powerful.

Anonymous disclosures about suspected wrongdoing will still be considered by the Trust, although any action taken will be at the discretion of the person undertaking the initial investigation. In exercising this discretion, regard will be had to a number of factors, including:

- The seriousness of the concern raised;
- The credibility of the disclosure;
- The likelihood of confirming the concern from other sources.
- The ability to investigate if it is not possible to confirm facts or gather more information due to the anonymity of the whistleblower or other reasons.

Employees are encouraged to raise any concerns of suspected wrongdoing internally but it is recognised that in certain circumstances it may be appropriate to instead raise concerns externally, to the relevant external organisation or organisation for the relevant category of wrongdoing. (see The List of Prescribed Persons below)

Once a concern about suspected wrongdoing has been raised either internally or externally, employees have a duty to fully participate in any subsequent whistleblowing investigation. Employees who have raised their concern may, therefore, feel it appropriate to seek advice from their Trade Union representative or another advisory body such as Public Concern at Work.

### **Internally – to Management**

Employees are encouraged to raise any concerns of suspected wrongdoing with the Head of School.

If an employee believes that the issue is too serious or sensitive to raise with the Head of School, or believes that they are involved in the suspected wrongdoing, they should raise their concerns with the Chair of the Governing Body.

The employee can also raise their concern with the Chief Executive Officer of Inspire Partnership Multi Academy Trust as the employing organisation.

### **Externally**

If an employee feels unable to raise their concerns about suspected wrongdoing internally or feels dissatisfied with an internal investigation into their concerns, they may be justified in contacting a relevant external person or organisation for the relevant category of wrongdoing.

The List of Prescribed Persons, as set down in The Public Interest Disclosure (Prescribed Persons) Order 2014, includes ;

- The Audit Commission for England and Wales (including auditors appointed by the Commission)
- The Charity Commissioners for England and Wales
- Children’s Commissioner
- OFSTED
- The Environment Agency
- Health and Safety Executive
- Local Authorities
- Information Commissioner
- Advisory, Conciliation and Arbitration Service (Acas)
- Public Concern at Work

This list has been prescribed by the Secretary of State, in the event that the more stringent conditions regarding external disclosure are met. The relevant person or organisation may be able to provide independent advice.

Employees may, in certain, limited situations, also be justified in raising a concern about suspected wrongdoing to a wider audience but should always refer to the Qualifying Disclosure (Section 5) before taking such action, so that they can determine whether this course of action is appropriate.

If an employee chooses to disclose their concern outside the Trust, they must take care to ensure that they do not disclose confidential or privileged information. Examples of information that is given to the Trust/Academy/School in confidence (either explicitly or where it is clear from the circumstances that there is an expectation that the information will not be passed on) are:

- information that would enable a child or other vulnerable client to be identified
- commercially sensitive information
- third party personal financial information
- information that is held as part of court proceedings where the information has not been made public
- information that could affect national security
- legal advice given to the service

Where confidential or privileged information is inappropriately disclosed, an employee may be subject to disciplinary action in accordance with the Trust's Disciplinary Procedure.

## **Concerns about Children and Vulnerable Persons**

If an employee's concern relates to any suspected wrongdoing to the welfare of children and/or vulnerable adults, the Trust will refer the concern for investigation by a person with sufficient and appropriate independence, experience and expertise in such matters to be able to properly advise on the best approach to an investigation of the concern raised. This person is likely to be the Designated Officer (formerly known as the LADO) for Wakefield Council. However, if the concern is complex, support and advice may be sought from appropriate external organisations.

Failing to report a concern relating to the wellbeing of children and/or vulnerable adults could be seen as a failing in professional duty for some employees and be in breach of legislation. Such failures may result in disciplinary action being considered in accordance with the Academy/School's Disciplinary Procedure.

## **7. How the Trust/Academy/School Will Respond**

The action taken by the Trust/Academy/School will depend upon the nature of the concern that is raised.

In most instances, it is expected that in order to protect individuals, the Trust/Academy/School, initial enquiries will be made to decide whether a whistleblowing investigation is required and, if so, what form this investigation will take. Some concerns about suspected wrongdoing may be resolved by agreed or alternative action without the need for a whistleblowing investigation.



If the disclosure has been made internally, the person dealing with the initial whistleblowing disclosure must inform the Chair of the Governing Body who will determine if a whistleblowing investigation will take place and if so, determine the terms of reference for that investigation, and then take the decision to:

- Complete the investigation internally using an independent and impartial member of the School's management team. They will also determine the terms of reference for the investigation; or
- Refer the matter to the Trust for investigation
- Refer the matter to an external body for them to investigate; or
- Refer the matter directly to the Police; or
- Organise an independent inquiry; or
- Refer the matter for consideration under any other existing Academy/School procedure as may be appropriate in the circumstances; or
- Take no further action

The Chair of the Governing Body may seek advice from the CEO of Inspire Partnership Multi Academy Trust as the employing organisation

The academy/school will respond in writing to the employee's contact address, within 10 working days of receiving the disclosure, providing the following information:

- An acknowledgement that their concern has been received, with due care regarding confidentiality;
- The name of a "contact officer" who they will be able to liaise with if concerns or issues arise as a consequence of them making the disclosure;
- indicating how it is proposed to deal with the matter; and
- giving an estimate as to how long it will take to provide a final response.
- If applicable, an explanation as to why it may not be appropriate to carry out a whistleblowing investigation.

If it is not possible to provide all this information within 10 working days the written response will explain the reasons for this and give an indication as to when it will be available to be shared with the employee.

Every attempt will be made to resolve the matter within 28 working days of a concern being raised, or if this is not possible as soon as is reasonably practicable. If the matter cannot be resolved within this time scale, the employee will be kept regularly informed of how the concern is being dealt with.

Subject to legal constraints, the employee will be notified of the outcome of any whistleblowing investigation into a concern they have raised.

The outcomes of all formal whistleblowing investigations will be reported to the academy/school's Governing Body and the Trust's Board of Directors. The Head of School will ensure that all documents relating to an investigation into a disclosure will be kept on confidential.

## **8. Safeguards**

### **Harassment or Victimisation**

The Trust recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those who may be guilty of malpractice or from the Governing Body as a whole. The Trust will not tolerate any harassment or victimisation (including informal pressures) and appropriate action will be taken in order to protect a person who raises a concern in good faith.

If an employee feels that they have suffered detriment, either directly or indirectly, as a result of raising a concern under this Policy, they should refer to the Academy/School's Grievance Policy.

Any allegations of harassment or victimisation will be fully investigated and where a case to answer is identified it will be addressed through the application of the Trust's Disciplinary Policy.

### **Anonymity**

Concerns raised anonymously may be considered and investigated, depending upon the seriousness of the issues raised and the credibility of the allegations, but the Trust/Governing Body will also need to consider the possibility that anonymity can be used to put forward false allegations or malicious allegations. In general, therefore, and given the assurances on protection of identity, the Trust would expect serious concerns not to be raised anonymously.

### **False and Malicious Allegations**

The Trust/Governing Body will protect themselves and their employees from false and malicious expressions of concern by taking disciplinary action where appropriate. In addition, a concern which is genuinely believed may prove to be unfounded on investigation. The Trust/Governing Body will try to ensure that the negative impact of either a malicious or unfounded allegation about any person is minimised. However, they acknowledge that it will not be possible to prevent all of the repercussions potentially involved.

### **Legal Support**

Consideration will be given to the academy/school obtaining legal support in appropriate cases, each request for such to be considered on merit.

### **Subjects of Whistleblowing Disclosure**

If an employee finds themselves the subject of a whistleblowing disclosure and a subsequent investigation they will have the right to be represented by a Trade Union representative or a work colleague who is not involved in the area of work to which the concern relates during any interviews which take place as part of the investigation.



### **Counter Grievances**

Whilst every possible precaution will be taken to maintain the confidentiality of any "whistleblower" it is recognised that on occasions a person who is the subject of the

concerns raised may become aware of who has raised the concern, which could prompt a grievance being submitted related to the detrimental treatment at work if the subject of the disclosure believes that the disclosure is inaccurate and/or malicious and/ or has been unreasonably made.

The submission of such a counter grievance by a person who is the subject of a disclosure will not prevent, or interfere with, any whistleblowing investigation into the original disclosure occurring or continuing. Any whistleblowing investigation will fully explore the issues raised in a counter grievance both at the interview with the subject of the disclosure and also with any other person(s) named as witnesses by either party. The outcome of the investigation will therefore address both the original disclosure and any counter grievance submitted. The investigation will in effect replace Stage 1 of the Academy/School's Grievance Procedure. Therefore if the counter grievance is not resolved through the outcome of the investigation the matter may be referred to Stage 2 of the Grievance Procedure.

If the whistleblowing investigation into the original disclosure concludes that the counter grievance is justified (and therefore that the allegations were either maliciously inaccurate and/or were unreasonably made) this will be confirmed in writing prior to any disciplinary action being considered, in accordance with the Trust's Disciplinary Policy, against the employee who made the original disclosure.

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|---|--|
| <b>Signature<br/>CEO :</b>                  |  |
| <b>Signature<br/>Chair of Trust Board :</b> |  |
| <b>Date :</b>                               | 26.09.2017   |