



Washwood Heath
Multi Academy Trust

Whistleblowing Policy & Procedure

Prepared by:	Director of HR in consultation with Heads of Academy, whole school staff & city-wide unions
Applies to:	Workers, employees, agency workers, contractors providing services to WHMAT and/or members of the public
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WHISTLEBLOWING POLICY & PROCEDURE

*** ANY REFERENCE TO THE CEO IN THIS POLICY ALSO NOW REFERS TO THE DEPUTY CEO**

1.0 Commitment & Purpose

1.1 The Board of Trustees of Washwood Heath Multi Academy Trust (“WHMAT”) is committed to ensuring that any fraud, misconduct or wrongdoing by workers or officers of WHMAT is reported and properly dealt with. It therefore encourages all individuals to raise any concerns that they may have about the conduct of others within WHMAT, or about the way in which WHMAT is run.

1.2 The purpose of this Policy is to:

- a) encourage a culture of openness and accountability whereby whistleblowers and/or their representatives feel confident in raising disclosures in the public interest about suspected serious wrongdoing, without fear of reprisals or victimisation, even where the disclosures are not subsequently confirmed by an investigation; and
- b) set out how WHMAT will handle and respond to disclosures; and
- c) give a clear message that disclosures are taken seriously; and
- d) ensure that when a disclosure proves to be well-founded, the individuals responsible for serious wrongdoing will be dealt with in an appropriate manner; and
- e) set out what whistleblowers can expect by way of confidentiality and protection when making a disclosure; and
- f) identify independent support for employees who wish to make a disclosure.

1.3 This Policy does not form part of a worker’s contract of employment and it may be amended by WHMAT at any time in consultation with affected workers.

2.0 What is whistleblowing?

2.1 “Whistleblowing” is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing which affects others. It is referred to in law as “making a protected disclosure”. It has a specific legal definition under the Public Interest Disclosure Act 1998 (“PIDA”), i.e. *“a disclosure of information which, in the reasonable belief of the worker, is made in the public interest and tends to show serious misconduct”*.

2.2 The law provides protection for workers who raise legitimate concerns about specified matters or “qualifying disclosures”. A qualifying disclosure may relate to:

2.2.1 Criminal activity (e.g. fraud, corruption or theft);

- 2.2.2 Miscarriages of justice;
- 2.2.3 Danger to health & safety (e.g. the use of unsafe equipment);
- 2.2.4 Damage to the environment (e.g. a chemical spillage);
- 2.2.5 Failure to comply with any legal or professional obligation or regulatory requirements (e.g. knowingly employing illegal immigrants);
- 2.2.6 Bribery;
- 2.2.7 Financial fraud or mismanagement (e.g. false returns to HM Revenue & Customs);
- 2.2.8 Negligence;
- 2.2.9 Breach of WHMAT's internal policies and procedures;
- 2.2.10 Conduct likely to damage WHMAT's reputation;
- 2.2.11 Unauthorised disclosure of confidential information;
- 2.2.12 Other unethical behaviour;
- 2.2.13 The deliberate concealment of any of the above matters.

2.3 To be protected under PIDA, a worker only has to have a reasonable belief that the wrongdoing being complained about is being, has been, or is likely to be committed.

2.4 In this Policy, receipt of any such information as defined at 2.1, will be referred to as a "disclosure".

3.0 Scope

3.1 The Policy applies to disclosures from workers of WHMAT regardless of length of service and includes employees, agency staff, volunteers, contractors and/or consultants doing work for WHMAT. All of these groups of individuals will be referred to as "workers" for the purposes of this Policy.

3.2 WHMAT recognises that as a public body, it might receive a disclosure not only from its workers, but from members of the public as well. The Policy therefore applies equally to disclosures from members of the public. A member of the public will be anybody not falling within the definition of "worker" at 3.1 and may include a member, trustee, member of an academy advisory board, the parent of a WHMAT pupil, or somebody who uses WHMAT's services.

3.4 The Board of Trustees is committed to dealing with disclosures from workers and members of the public in the same way. To this end, where this Policy refers to a "whistleblower", it refers to workers and members of the public who make a disclosure.

4.0 Exemptions

4.1 This Policy should not be used for:

- 4.1.1 Complaints relating to your own personal circumstances, such as the way that you perceive you have been treated at work. WHMAT would expect such complaints to be lodged under other appropriate internal policies such as Grievance, Disciplinary, Capability, Dignity at Work or WHMAT's general complaints procedure.

4.1.2 Allegations that fall within the scope of specific statutory procedures (for example child or vulnerable adult protection) e.g. child protection &/or safeguarding matters, which will normally be referred for consideration under the relevant procedure, unless the whistleblower has good reason to believe that the appropriate process is not being followed or will not be followed effectively, in which case the provisions of this policy shall apply in relation to that allegation; or

4.1.3 Appealing against any complaint or grievance handled under any of the above procedures.

4.2 Where a disclosure falls outside the scope of this Policy, WHMAT will advise the whistleblower of this and consult with them in respect of taking the matter further, if appropriate. Wherever possible, WHMAT will comply with the reasonable views of the whistleblower in relation to the disclosure of information, but there may be situations where WHMAT is legally required to pass on details of a disclosure, without the consent of the whistleblower, such as in Police investigations or legal proceedings.

4.3 Workers who are unsure whether something falls within the scope of this Policy, or another Policy, should consult with HR and/or their trade union representative as appropriate.

5.0 Protection for whistleblowers

5.1 If a worker makes a disclosure under PIDA that is in the public interest and in accordance with this Policy, they are legally protected from harassment or victimisation, and will not be subject to any other detriment as a result of the disclosure (examples of detriment can be found in the Whistleblowing Toolkit/Public Concern at Work's Code of Practice on Whistleblowing).

5.2 The person making the disclosure does not have to be directly or personally affected by the serious misconduct, but must believe that the disclosure is true, and the disclosure must be made in the public interest.

5.3 PIDA will protect any worker making a protected disclosure, irrespective of whether or not the disclosure relates to information gained in the course of their employment (e.g. a protected disclosure made by a worker acting as a service user would still fall under the PIDA protection).

5.4 Any employee who makes a 'protected disclosure' which meets the definition in PIDA is legally protected against victimisation and shall not be subject to any other detriment for whistleblowing. WHMAT has adopted this Policy in order to encourage early internal whistleblowing and to demonstrate its commitment to preventing victimisation.

5.5 If a worker claims that, despite that commitment, he or she has been victimised for making a disclosure, he or she should make a further complaint under this Policy directly to the Chair of the Board of Trustees or to the CEO. If the disclosure involves them, the worker should report this to the Director of HR for WHMAT.

- 5.6 A worker has the right to complain of victimisation as a result of any whistleblowing to an employment tribunal.
- 5.7 Any allegation that a worker has victimised a whistleblower will be taken seriously by WHMAT, and managed appropriately. In particular, the worker alleged to have caused the victimisation could:
 - 5.7.1 be subject to an internal WHMAT investigation, and potential disciplinary action, (up to and including dismissal);
 - 5.7.2 face a civil claim personally, as the affected whistleblower could be entitled to directly issue a legal claim against the offender.

6.0 Raising a whistleblowing concern internally

- 6.1 Workers who believe that they have whistleblowing concerns arising from their employment may wish to seek independent advice from their trade union representative or the charity “Protect” (020 3117 2520 <https://protect-advice.org.uk/> before raising their concerns. This will enable them to get advice on whether the information which they wish to report would meet the definition of a “disclosure” under PIDA, and whether they should be using this Policy or a different Policy.
- 6.2 Workers employed by WHMAT may also access confidential/free telephone counselling via Perkbox .. Go to the Perkbox homepage or app and search ‘Employee Support Hub’. Click get this perk, and follow the link to the on-line portal, where you will get instant access to the confidential 24-hour phone line.
- 6.3 The Board of Trustees encourages workers to promptly raise whistleblowing concerns with their line manager. This can be done in person or in writing and may enable the matter to be resolved quickly and/or effectively. Workers wishing to submit a written complaint should use the form in the whistleblowing toolkit unless there are exceptional circumstances.
- 6.4 However, workers who perceive that their line manager has not addressed their concerns, or they prefer not to raise it with them for any reason, perhaps because they are perceived to be the subject of the concern being raised or suspected of being connected with it, can raise the matter orally or in writing with:
 - 6.4.1 The Chair of the Board of Trustees;
 - 6.4.2 The Chief Executive Officer (“CEO”); or
 - 6.4.3 The Head of Academy in their base academy.

Contact details are set out in the Whistleblowing Toolkit.

7.0 Acknowledging receipt &/or requesting further information from recipient

- 7.1 The individual or individuals to whom a whistleblowing concern has been raised, shall acknowledge receipt of a worker's written concern within 2 working days, unless there are exceptional circumstances.
- 7.2 If the worker provides insufficient information with their initial disclosure (in the reasonable opinion of the recipient at 6.3 or 6.4 above), the whistleblower may be asked to provide further information before any further investigation or next steps take place.

8.0 Initial assessment & investigation

- 8.1 Once all relevant information has been obtained from the whistleblower, the recipient will, in consultation with appropriate HR and/or legal advice, decide whether the disclosure meets the definition of a "disclosure" under PIDA and this Policy. If it is considered that the concerns raised do not fall under this Policy and/or that another internal WHMAT Policy would be more suitable, the recipient will be advised of this in writing wherever possible, within 5 working days after acknowledging receipt of their initial disclosure in writing.
- 8.2 Alternatively, when a disclosure is considered to fall under this Policy, the recipient will notify the worker in writing within 5 working days of acknowledging receipt of the initial disclosure, unless there are exceptional circumstances (see Whistleblowing Toolkit). The purpose of this letter will be to update the whistleblower on how their complaint will be progressed (including who will investigate and likely timescales). Prior to writing this update letter, the recipient will carry out an initial assessment to determine the scope of any investigation/internal enquiry. This may or may not require the worker to attend a meeting to provide additional information in support of their disclosure. If necessary, they will have the right to be accompanied by a workplace colleague or trade union representative.
- 8.3 The person to whom the whistleblowing complaint has been raised shall appoint a suitably trained and impartial investigator at the earliest available opportunity. Subject to the seriousness and nature of the disclosure, this may be an appropriate member of WHMAT staff, or an external/independent investigator as appropriate. In any event, the recipient of the complaint shall ensure that the investigator is provided with a clear brief (known as terms of reference), a copy of this Policy, a copy of the original disclosure and any supporting paperwork. A model terms of reference appears in the Whistleblowing Toolkit.
- 8.4 Once the recipient of the concern has commissioned an investigator, they will be instructed to contact the whistleblower at the earliest available opportunity, and in any event, no later than 10 working days from the date of their appointment. The investigator will advise the whistleblower in writing of the following:
 - 8.4.1 The name/role of the investigator appointed;
 - 8.4.2 Arrangements for confidentiality (see further at 11 below);
 - 8.4.3 How the person making the disclosure will be expected to contribute to the investigation;

- 8.4.4 The outcome of any discussions which may have taken place over anonymity (see 11 below);
 - 8.4.5 An estimate of how long the investigation is likely to take;
 - 8.4.6 Their right (as a WHMAT worker) to be accompanied by a recognised trade union or work place colleague at any meeting; and
 - 8.4.7 If they are a member of the public (rather than a WHMAT worker), to discuss whether it would be appropriate for them to bring support or representation to any meeting.
- 8.5 The recipient of the whistleblowing complaint will arrange to keep the whistleblower updated throughout the process, either by telephone or in writing (see letter in Whistleblowing Toolkit).
- 8.6 Subject to any legal constraints, the worker will be informed in writing of the final outcome of any investigation, including recommendations for further action (see letter in Whistleblowing Toolkit). There are situations (such as investigations regarding the ill treatment or abuse of children or vulnerable adults) where it is not appropriate for WHMAT to disclose the existence of or outcome of investigations.

9.0 Raising a whistleblowing concern externally

- 9.1 The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing within WHMAT. With that in mind, the Board of Trustees is hopeful that workers and/or members of the public will raise matters internally rather than alerting external bodies or contacts.
- 9.2 However, if a worker has good reason to believe that a) their disclosure will not be managed properly by WHMAT; or b) that they will be exposed to victimisation, or any other detriment as a result of making the disclosure internally; or the disclosure is about another school outside of WHMAT, or another service provided by WHMAT; then the worker may make the disclosure directly to:
- 9.2.1 The Education & Skills Funding Agency (“ESFA”); and/or
 - 9.2.2 The Department for Education (“Dfe”); and/or
 - 9.2.3 Birmingham City Council (“BCC”); and/or
 - 9.2.4 To one of the other “Prescribed Persons/Regulators” set out in the Whistleblowing Toolkit, as appropriate to the nature of the concern(s) being raised.

9.3 WHMAT workers who make a disclosure directly to one of the external contacts at 9.2 should set out in writing why they feel unable to make the disclosure internally in line with 9.2 above. Whistleblowers are encouraged to approach the Charity, “Public Concern at Work” before reporting a concern to any external bodies or individuals (see 6.1 above for contact details).

9.4 Although BCC does not maintain/fund WHMAT and no longer employs WHMAT workers, it will acknowledge any disclosures made to it by a WHMAT worker. However, it does not have

any legal powers to investigate a disclosure made about academies (except for safeguarding disclosures & special educational needs issues). Upon receipt of such disclosures, BCC will either a) contact the whistleblower to discuss referral of their disclosure to the Dfe or the ESFA as appropriate; or b) refer information disclosed to it directly to these agencies, without disclosing the identity of the whistleblower, and without their consent, where deemed appropriate. BCC will work with the ESFA and/or the Dfe to review the outcome of any disclosures referred to them.

- 9.5 If a whistleblower has concerns about the actions of a third party, such as a contractor, supplier, or service provider, they may raise their concerns with the third party direct, where they reasonably believe that it relates to their actions or to something that is legally their responsibility. However, the Board of Trustees encourages whistleblowers to report such concerns internally first using one of the named recipients at 6.3 or 6.4 above.

10.0 Whistleblowing by members of the public

- 10.1 Unlike disclosures by employees, PIDA does not offer legal protection for disclosures made by members of the public. However, WHMAT will take reasonable and appropriate action to protect members of the public when they make a disclosure.

- 10.2 WHMAT considers that any disclosure made by members of the public in respect of serious misconduct should be handled in the same way as disclosures made by employees. Once a disclosure from a member of the public has been received by WHMAT, it will be handled in the same way as a disclosure made by a worker under PIDA and the provisions of sections 7 & 8 shall apply.

11.0 Confidentiality & anonymity

- 11.1 The Board of Trustees acknowledges that the best way to raise a concern under this Policy is to do so openly. Openness makes it easier for the employer to assess the issue, to work out how to investigate the matter and to obtain more information. A worker raises a concern confidentially if s/he gives his or her name on the condition that it is not revealed without his or her consent.

- 11.2 PIDA does not specifically require employers to guarantee confidentiality in whistleblowing matters. WHMAT will nevertheless seek to treat all disclosures in confidence as a means of preventing victimisation and will try to avoid disclosing information identifying any whistleblower, even if WHMAT considers that the disclosure falls outside of the scope of a protected disclosure. However, there may be situations where, due to the nature of the wrongdoing being alleged, that it is impossible to avoid disclosing information identifying any whistleblower. If this is the case, the recipient of the whistleblowing concern will consult with the whistleblower about this.

- 11.3 WHMAT may also be required to disclose the identity of the whistleblower to third parties, where necessary for the purposes of undertaking investigations, for example where the disclosure relates to criminal offences and WHMAT considers that Police should investigate.

- 11.4 There may also be situations where WHMAT is obliged to disclose information, such as where there are legal proceedings following on from investigation of the disclosure. This may require the disclosure of witness statements or correspondence, and there is also the possibility that the whistleblower may be expected to give evidence at any hearing. In these circumstances, WHMAT will discuss the implications for the whistleblower and, where appropriate, discuss appropriate support arrangements.
- 11.5 A worker raises a concern anonymously if s/he does not give his or her name at all when making a whistleblowing complaint. WHMAT does not encourage workers to make anonymous disclosures. This is because they can make proper investigation more difficult or impossible if we cannot obtain further information from the whistleblower. It is also more difficult to establish whether concerns raised are credible. In addition, if nobody knows who provided the information, it is not possible to reassure them that they will be protected from suffering a detriment for having raised the concern.
- 11.6 Anonymous disclosures will always be considered but, depending on the information given and the credibility of the evidence, there may not be enough information or sufficient evidence to pursue an investigation without the investigator being able to contact the whistleblower for further information.
- 11.7 Where WHMAT receives anonymous complaints, it will make a determination about whether to investigate based on:
- 11.7.1 The seriousness of the issue(s) raised;
 - 11.7.2 The credibility of the concern(s); and
 - 11.7.3 The likelihood of confirming the allegation from other sources.
- 11.8 WHMAT is subject to the Freedom of Information Act 2000. This means there is a presumption that it discloses any information it holds, unless that information falls under one or more exemptions and, in most cases, that the application of that exemption is in the public interest (for further information see WHMAT's Freedom of Information Policy at www.washwoodmat.com, policies tab).
- 11.9 The Freedom of Information Act 2000 contains exemptions that may be applicable to permit the withholding of information identifying the whistleblower, including:
- 11.9.1 s.40 Personal Data.
 - 11.9.2 s.41 Information which, if disclosed, would give rise to an actionable breach of confidence.
- 11.10 If WHMAT receives a request for information identifying a whistleblower, it will contact the whistleblower to seek their reasonable views in respect of the disclosure or withholding of the information requested and, wherever possible, it will seek to comply with those views.

11.11 WHMAT is mindful, in reconciling the legal obligation to disclose information it holds under the Freedom of Information Act 2000, of its legal obligations under:

- 11.11.1 The Public Interest Disclosure Act 1998 to avoid the discrimination or victimisation of employees or any other detriment on the part of the employee; and
- 11.11.2 The Health and Safety at Work etc. Act 1974, to protect the health and safety (including mental health) of employees.

12.0 If you are not satisfied

12.1 Whilst the Board of Trustees cannot always guarantee the outcome that a whistleblower may be seeking under this Policy, it will seek to deal with any concerns raised fairly, consistently and promptly. By using this Policy, whistleblowers can help us to achieve this objective.

12.2 If, however, you are not happy with the way in which your concern has been handled under this Policy, you may raise this with one of the other key contacts at 6.4 above. Alternatively, you may contact one of the “prescribed regulators” set out in the whistleblowing toolkit, or contact your legal adviser or your MP.

13.0 Recording & monitoring complaints

13.1 The Heads of Academy within WHMAT shall maintain a confidential log of disclosures made under this Policy from the date that this Policy is ratified (known as the whistleblowing register).

13.2 The Staffing & Pay Committee for WHMAT shall review the number and type of internal and/or external complaints being raised by workers and/or members of the public on an ongoing basis about WHMAT or its staff or practices, with the intention of:

- 13.1.1 Preventing the occurrence of similar concerns being raised in the future; and
- 13.1.2 Ensuring that a consistent approach and/or strategies are being implemented across WHMAT to minimise such concerns.

14.0 Review of Policy

14.1 This Policy will be reviewed annually by the Director of HR so that its application and outcomes can be monitored. Changes may be proposed as appropriate in line with employment law and/or HR practice and subject to consultation.

Appendix 1 - Whistleblowing Complaint Flowchart

