



Public Interest Disclosure (Whistleblowing) Policy

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1 – Scope

- 1.1 This policy applies to all employees, volunteers, agency workers, contractors, governors and trustees across the Transforming Lives Educational Trust (the Trust).
- 1.2 This procedure aims to provide a framework for reporting serious concerns about any aspect of work or practice within the Trust or one of its academies.

2 – Policy Statement

- 2.1 The Trust will:
 - 2.1.1 Manage Public Interest Disclosures in accordance with guidance from Warwickshire Education Services, the Bribery Act 2010, and any subsequent Act/s and/or regional/national guidance;
 - 2.1.2 Encourage all of its employees with serious concerns about any aspect of their work to follow the procedures outlined in this document to raise concerns;
 - 2.1.3 Give due consideration to all concerns and will deal with any concerns in an appropriate manner as provided by the legislation in this area;
 - 2.1.4 Use any concerns raised through whistleblowing procedures to aid quality control, risk management and good governance and to highlight any problems within the organisation;
 - 2.1.5 Investigate any matters raised under the following procedures in a thorough, prompt and confidential way and report back the outcome of such an investigation to the employee who raised the concern;
 - 2.1.6 Never victimise an employee for raising a matter under this procedure;
 - 2.1.7 Not penalise any employee for being genuinely mistaken and who makes an allegation that turns out to be unfounded;
 - 2.1.8 Consider any false and/or malicious allegations as a disciplinary offence including those allegations that have no supporting proof or no evidence that shows that the matter actually occurred;
 - 2.1.9 Use disciplinary procedures if misconduct is discovered as a result of an investigation, in addition to any appropriate external measures;
 - 2.1.10 Regard theft, fraud, bribery and corruption as a serious disciplinary offence, which will be addressed in accordance with the Trust's Disciplinary Policy and associated procedures.

3 – Principles

- 3.1 The procedures have been established against the following principles:
 - 3.1.1 The Trust is committed to the highest possible standards of openness, probity and accountability and to tackling wrongdoing;
 - 3.1.2 The Trust will implement good practice in the context of whistleblowing in order to encourage openness, transparency and public integrity, comply with legislation and to protect employees from dismissal and detriment short of dismissal for making a protected disclosure;
 - 3.1.3 The Trust considers any covering up of wrongdoing as a disciplinary offence including where an individual is told not to pursue any concern, even by a person in authority – an employee should not agree to remain silent.

4 – Definition of Terms

- 4.1 Employee – for the purpose of this policy, this means any member of staff, volunteer, agency worker, contractor, governor or trustee of the Trust.
- 4.2 The Trust – The Transforming Lives Educational Trust and its academies.

5 – Procedure

5.1 Incidents of Misconduct or Wrongdoing

- 5.1.1 Particular instances of misconduct or wrongdoing may relate to:
 - i. any unlawful act, whether criminal or a breach of civil law;
 - ii. maladministration, as defined by the Local Government Ombudsman;
 - iii. breach of any statutory Code of Practice;
 - iv. breach of, or failure to implement or comply with the Financial Regulations or Standing Orders;
 - v. breach of contract;
 - vi. any failure to comply with appropriate professional standards;
 - vii. theft, bribery, fraud, corruption, dishonesty or the abuse of public funds;

- viii. actions which are likely to cause physical danger to any person, or to give rise to a risk of significant damage to property;
 - ix. sexual or physical abuse of pupils or members of staff;
 - x. loss of income to the Trust;
 - xi. abuse of power, or the use of the Trust powers and authority for any unauthorised or ulterior purpose;
 - xii. discrimination in employment or in the provision of education;
 - xiii. any other matter which cannot be raised under any other procedure;
 - xiv. an attempt to cover up any of the above.
- 5.1.2 The above list is not exhaustive and further advice can be taken from Public Concern at Work, (see Section 5.2) if an employee is unclear as to whether the use of this Policy is appropriate to their particular circumstances.
- 5.1.3 Where an employee wishes to make a disclosure about possible misconduct by an employee of the Trust, or about a health and safety issue, they should follow the procedures laid down in Section 5.2.
- 5.1.4 Where an employee wishes to make an allegation about safeguarding issues concerning a child, young person or vulnerable adult, they should follow the procedures laid down in the Child Protection and Safeguarding Policy.

5.2 Confidential Reporting Procedures

5.2.1 Disclosure

- i. Any employee knowing or suspecting that another employee, a contractor or any other person connected with the Trust is responsible for malpractice or misconduct as outlined in this Policy, must use the procedures set out herewith.
- ii. Under no circumstances should an employee suspecting malpractice or misconduct make the matter public; such an action may itself be considered to be misconduct and expose the employee concerned to disciplinary action.
- iii. The procedure to be followed is to contact the immediate line manager, Principal or Chair of the Local Governing Body, possibly via another member of staff or their trade union representative and arrange a meeting. The Model Whistleblowing Form (Appendix 1) should be used.
- iv. If the allegation concerns the Principal, the employee should contact the Chair of Trustees.
- v. Different procedures cover allegations of abuse of children, young people and vulnerable adults and should be used in such cases, including initially reporting all such allegations to the Local Authority Designated Officer (LADO).
- vi. All communications between the employee making the allegation and the Trust on the subject of the allegation will be to the employee's home address.

5.2.2 Model Whistleblowing Form (Appendix 1):

- i. The legislation protecting individuals who make a protected disclosure applies not only to employees but also to any person who undertakes to do or perform personally (or otherwise) any work or service for the employer, regardless of the nature of the contractual relationship between them.
- ii. While there is no set method through which an employee must make a protected disclosure, it is good practice to provide a form for him or her to set out the disclosure. This allows the Trust to identify an issue as a formal public interest disclosure before invoking its whistleblowing procedure.
- iii. The form also has the advantage of prompting an employee to provide details of his or her concerns, such as examples of the dates and times of when the wrongdoing is alleged to have taken place, and what action the employee would like to see taken. The form may also prompt the employee to think about whether or not the issue is serious enough to warrant invoking the whistleblowing procedure in the first place and allow the Trust to distinguish between a genuine public interest disclosure and a personal grievance that would be better dealt with under its grievance procedure.
- iv. The form is also designed to allay any concerns that the employee may have that individuals implicated in the wrongdoing, (for example, his or her line manager) will be involved in the investigation.

5.2.3 Initial Interview

- i. The Chair of the Local Governing Body will arrange an interview with the employee making the allegation. The interview will be arranged at a time and place, which will ensure confidentiality and may therefore be held away from the employee's usual place of work.
- ii. Where the employee making the allegation agrees, this interview will take place in the presence of a witness. The employee may be accompanied by a friend, who may be a work colleague, trade union representative or other person. The friend should not be a legal representative unless notice is given, to enable the Chair of the Local Governing Body to be accompanied by a legal representative, should the Chair of the Local Governing Body so choose.
- iii. The Chair of the Local Governing Body will take a full note of the allegation. The Chair of the Local Governing Body will provide the employee making the allegation a copy of the note within **five clear working days** of the interview. The Chair of the Local Governing Body will invite the employee making the allegation to clarify any matter or record a disagreement with the note. The Chair of the Local Governing Body will then ask the employee making the allegation to sign a copy of the note and return it.

- iv. Within **five clear working days** of the interview the Chair of the Local Governing Body will write to the employee making the allegation:
 - a. acknowledging that the allegation has been received;
 - b. providing the note of the initial interview;
 - c. giving an estimate of how long it will take to provide a final response;
 - d. outlining whether any initial enquiries have been made;
 - e. clarifying whether further investigations will take place, and, if not, why not;
 - f. where an investigation is to be made, indicating how it will be dealt with and where possible who the investigating officer will be.

5.2.4 Investigation

- i. Where there appears to be some substance in the disclosure, the Chair of the Local Governing Body will arrange an investigation into the allegation, except where:
 - a. the disclosure suggests criminal activity may be involved, in which case paragraph 5.2.5 of this procedure will apply;
 - b. the allegation concerns weak management rather than malpractice. In this case, with the agreement of the employee making the allegation, the Chair of the Local Governing Body will report the matter to the Principal and will inform the employee making the allegation that the matter will be handled through the normal line management structure. If the allegation concerns the Principal, the Chair of Trustees will undertake the investigation.
- ii. The nature of the investigation will depend on the type of allegation i.e. police matter (with potential criminal allegations) or internal safeguarding/conduct matter. The Chair of the Local Governing Body will be advised of the approach to match these circumstances as a consideration of the timings may be necessary. For example if there were a police investigation this might need to be concluded before an internal investigation commences. Once the investigation is able to proceed the Chair of the Local Governing Body should seek guidance from the Trust's HR Provider.
- iii. The Chair of the Local Governing Body may, at his/her discretion seek an external auditor (or appropriately trained or experienced professional) to conduct the investigation.
- iv. In some cases the Chair of the Local Governing Body may consider it appropriate to suspend the employee 'without prejudice' to allow the impunity of the evidence being investigated or there is a possible risk of harm to children posed by an accused person needs, which needs to be effectively evaluated and managed in respect of the child(ren) involved in the allegations. **Suspension must not be an automatic response when an allegation is reported.** If the Trust is concerned about the welfare of other children in the community or the employee's family, those concerns should be reported to the LADO or police but suspension is highly unlikely to be justified on the basis of such concerns alone.
- v. Suspension should only be considered in a case where there is cause to suspect a child or other children in the Trust is or are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically, or without careful thought being given to the particular circumstances of the case. The Trust must consider carefully whether the circumstances of the case warrant a person being suspended from contact with children in the Trust until the allegation is resolved, and should seek advice from the Trust's HR provider.

5.2.5 Action

- i. Where the investigation shows there is a prima facie case for taking some action, the following will apply:
 - a. if the Chair of the Local Governing Body suspects that a criminal offence has taken place, he/she will inform the Chair of Trustees who will inform the police, having taken advice as necessary. In this case, any internal investigation will be postponed until the police investigation and any criminal proceedings which may arise, have been completed;
 - b. otherwise the action to be taken at the end of the investigation will be covered by other Trust policies and procedures, (for example the Disciplinary Policy) and will not be dealt with here.

5.2.6 Response

- i. The length of time over which the investigation will be carried out will vary, but should be as short as is consistent with a thorough approach. If the investigation is prolonged, the Chair of the Local Governing Body will report to the employee making the allegation at regular intervals. All allegations must be investigated as a priority so as to avoid any delay. Target timescales are shown below for different actions in the summary description of the process. The time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

- ii. For those cases where it is clear immediately that the allegation is unfounded or malicious then it is expected that they should be resolved within one week. Otherwise it may need a full investigation to determine this. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the Board of Governors to deal with it, although if there are concerns about child protection, the Local Chair/Principal should discuss this with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action, the Principal should institute appropriate action within 3 working days.
- iii. At the end of the investigation, the Chair of the Local Governing Body will, as far as is possible and with due regard to third party rights, inform the employee making the allegation of the outcome. If the decision is that no action be taken, because the allegation has not been made out or it concerns weak practice, the reasons for this decision will be made known to the employee making the allegation.

5.2.7 Appeal

- i. If the employee reasonably believes that the appropriate action has not been taken, he/she should report the matter to the Chair of Trustees, or in the case where the Chair of Trustees has led the investigation, to the appropriate authority. With regard to the latter, legislation sets out a number of bodies to which qualifying disclosures may be made. These include:
 - HM Revenue & Customs;
 - the Financial Services Authority;
 - the Office of Fair Trading;
 - the Health and Safety Executive;
 - the Environment Agency;
 - the Director of Public Prosecutions; and
 - the Serious Fraud Office.

5.2.8 Safeguards

- i. 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 in any form and will take action and put in place support measures to protect employees who raise a concern. Disciplinary procedures are already in place to address any potential attempts at harassment or victimisation.
- ii. It is accepted by the Trust that employees may feel concerned that by raising areas of concern, their future careers may be detrimentally affected. This will not be the case and those raising concerns in the public interest may be assured that those concerns will be treated with the utmost respect and will play no part in future decisions related to an employee's progress or promotion.
- iii. If an employee who raises a concern is already the subject of disciplinary, redundancy or similar procedures, confidential reporting will not halt these procedures but every effort will be made on the part of the investigating officer to ensure that the issues are not inter-related or connected in any way.

5.2.9 Confidentiality

All efforts will be made to protect an employee's identity when they raise a concern and do not want their name to be disclosed; however, it must be appreciated that the investigation process may reveal the source of the information and a written statement by the employee may be required as part of the evidence, especially if the next step is a police investigation and prosecution.

5.2.10 Anonymous Allegations

- i. The Trust accepts that employees will raise genuine concerns that are based on factual evidence or direct observation. With this in mind, employees are encouraged to put their names to any allegation. Concerns expressed anonymously are much less powerful and far more difficult to investigate and prove, however, they will be considered at the Trust's discretion.
- ii. In deciding whether to investigate an anonymous allegation, it will be necessary to consider the seriousness of the allegation, its validity and whether evidence can be obtained in order to proceed with an investigation. In making this consideration 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 other sources in the face of a denial from the accused person(s).

5.2.11 Untrue Allegations

- i. If employees make an allegation without personal gain, which is based on evidence, observation or a series of unexplainable instances, but it is not confirmed by the investigation, no action will be taken against that employee who will be fully supported after the event. If, however, employees make malicious or vexatious allegations, disciplinary action may be taken.
- ii. Equally, if malicious allegations are made against the employee, the Trust will ensure that the employee is fully supported and that appropriate disciplinary action is taken against the person making the malicious allegations.

5.2.12 Further Information for Employees

There may be circumstances when employees wish to seek independent advice before raising a concern internally. The charity Public Concern at Work (PCaW) provides free confidential advice to workers who have concerns about wrongdoing in the workplace and can be found at www.pcaw.co.uk / whistle@pcaw.co.uk.

6 – Equality Statement

- 6.1 This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any individual (with due regard to their protected characteristics), and it helps to promote equality across the Trust.

7 – Monitoring

- 7.1 It is the responsibility of the Board of Trustees, and those they delegate authority, to ensure that the principles and procedures of this policy are adhered to. The use of this policy will be subject to routine monitoring to ensure its fidelity in practice. The evidence gathered from monitoring at regular intervals shall inform any reviews and future revisions to the policy, and no later than that stated on Page 1 of this policy.

8 – Related Policies, Procedures and/or Documents

- Child Protection and Safeguarding
- Keeping Children Safe in Education
- Staff Behaviour (Code of Conduct)
- Staff Disciplinary/Misconduct
- Working Together to Safeguard Children

Appendix 1 – Model Whistleblowing Form

Making a Public Interest Disclosure (Whistleblowing)	
Guidance	
<p>This form is intended for use by any individual working in the Trust, (including contractors, agency workers and volunteers) who wishes to raise an issue about wrongdoing.</p> <p>This form should be used to report wrongdoing within the Trust, (for example, financial irregularities or health and safety concerns), rather than to raise a personal grievance (for example, if you would like to make an allegation of bullying or harassment, or are complaining that your contract of employment has been breached).</p> <p>If you are unsure about whether your concerns are best dealt with under the Whistleblowing Policy or Grievance Procedure, please read the Whistleblowing Policy, which provides examples of the issues that should be reported using this form. If, having read the Whistleblowing Policy, you remain unsure about which procedure to use, please consult the Chair of the Local Governing Body for further advice.</p> <p>Once you have submitted this form, the whistleblowing procedure will be invoked. This will result in an investigation, which will not involve anyone, (for example, your line manager) you may have implicated below.</p> <p>In certain circumstances, you can request that your concerns be kept anonymous. Where possible, the organisation will respect a request for anonymity, but cannot guarantee that it will be able to do so.</p> <p>This form should be completed and delivered to the Chair of the Local Governing Body in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.</p>	
Formal Public Interest Disclosure (Whistleblowing)	
Employee's name:	
Employee's job title:	
Employee's department:	
Date:	
Does your public interest disclosure relate to your line manager?	Yes / No
Summary of disclosure:	
<p>Please set out the details of the issue that you wish to raise, providing examples where possible, particularly dates, times, locations and the identities of those involved. You may attach additional sheets if required.</p>	
Individuals involved:	
<p>Please provide the names and contact details of any people involved in your concerns, including witnesses.</p>	

Outcome requested:	
Please set out how you would like to see the issue dealt with, and why and how you believe that this will resolve the issue.	
Declaration:	
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that, if I knowingly make false allegations, this may result in the organisation taking disciplinary action against me.	
Form completed by:	
Signature:	
For completion by the Trust:	
Date form received:	
Name of recipient and job role:	
Signature:	