

# Ormiston Victory Academy

## Whistleblowing Policy

Date adopted: 13<sup>th</sup> March 2018

Next review date: Autumn 2019

Policy prepared by:		OAT HR
In consultation with:		ASCL, ATL, GMB, NAHT, NASUWT, NUT, Unison and Unite
Original consultation:		July 2017
Name and date of executive approval:		Carmel Brown – OAT HR October 2017
Date ratified by LGB (if required):		
Updated or new policy:		Updated
Adoption of this policy:	Academies transferring to OAT after 01/09/2014	To adopt this policy under the terms of the TUPE transfer. Only required to <b>inform</b> staff of any changes agreed with unions at national level.
	Academies that transferred before 01/09/2014	Can choose to consult locally and adopt. In these situations, the Principal should issue the policy to all staff and academy representatives for consultation over a calendar month. The district union offices should be copied in. Once adopted, any further changes consulted with the JCC will follow the process of <b>informing</b> not consulting.
Date released:		October 2017
Review date:		October 2019

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## 1. Introduction

- 1.1 Employees are often the first to realise that there may be something seriously wrong within an organisation and/or Academy. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to an Academy. They may also fear harassment or victimisation. In these circumstances, they may feel it is easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Ormiston Academies Trust insists on having an open and honest culture and is committed to the highest possible standards of probity and accountability. In line with that commitment we encourage employees with serious concerns about any aspects of the organisation's work to come forward and voice those concerns. Confidentiality will be maintained as far as is possible. It is guaranteed at the point of making a protected disclosure and will be maintained during investigations and hearings, other than when there is a need for disclosure of identity due to cross examination of the staff member as a witness in any subsequent procedure.
- 1.3 This policy is intended to encourage and enable employees to raise serious concerns within one of our Academies or Ormiston Academies Trust generally, irrespective of seniority, rank or status, rather than overlooking a problem or reporting the matter externally. It does not override workers' legal rights to make a protected disclosure to certain third parties under the Public Interest Disclosure Act 1998 (PIDA), as incorporated into the Employment Rights Act 1996.

## 2. Aims and Scope of this Policy

2.1 This policy aims to:

- provide avenues for staff to raise concerns and receive feedback on any action taken
- allows staff to take the matter further if dissatisfied with the management response, and
- reassures employees that they will be protected from reprisals or victimisation for confidential reporting in good faith

2.2 This policy is intended to cover concerns which fall outside the scope of the grievance or other procedures.

2.3 This policy applies to temporary, casual and agency staff, as well as employees.

2.4 Concerns must be raised when employees reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:

- a criminal offence
- a failure to comply with a legal obligation
- improper unauthorised use of public funds or other funds
- a miscarriage of justice
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety or welfare
- damage to the environment
- deliberate concealment of any of the above

2.5 Where the nature of the disclosure is not included in the above list, advice may be sought on the use of the appropriate policy (i.e. the whistle blowing or grievance policy) from the Human Resources Department or from a trade union or professional association. In general, it should be made by way of Ormiston Academies Trust's grievance policy and not under this whistle blowing policy.

### 3. How to Raise a Concern

- 3.1 As a first step, an employee should normally raise concerns with their immediate manager or their manager's superior. This depends, however, on the seriousness and sensitivity of the issues and who is involved. For example, if an employee believes that their immediate manager or their manager's superior is involved, s/he should approach the Principal or Chair of Governors. An employee (including the Principal and members of the leadership team) can bypass the direct management line and the Governing Body if s/he feels the overall management and Governing Body of the academy is engaged in an improper course of action then this may be referred to Nick Hudson, Interim Chief Executive of Ormiston Academies Trust ([nick.hudson@ormistonacademies.co.uk](mailto:nick.hudson@ormistonacademies.co.uk)). If the matter is regarding the Chief Executive, in this case please refer to section 9 below.
- 3.2 Concerns are better raised in writing. The employee should set out the background and history of the concerns, giving names, dates and places where possible, and the reasons why s/he is particularly concerned about the situation. If an employee does not feel able to put the concern in writing, s/he should telephone or meet the appropriate person. It is important that, however the concern is raised, the employee makes it clear that s/he is raising the issue via the whistleblowing procedure.
- 3.3 The earlier and the more detailed the concern, the easier it will be to take action.
- 3.4 At this stage the employee is not expected to prove the allegation but s/he will need to demonstrate to the person contacted that there are sufficient grounds for concern.

### 4. How Ormiston Academies Trust Will Respond

- 4.1 The action taken by OAT will depend on the nature of the concern. The matters raised may:
- be investigated by the Principal/CEO or an independent third party as appropriate, either in conjunction with other OAT employees or alone
  - be investigated internally by an appropriately skilled and experienced individual, knowledgeable in the area concerned
  - be referred to an External Auditor or Ombudsman
  - form the subject of an independent enquiry
- 4.2 In order to protect individuals, the Academy and OAT's initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination) will normally be referred for consideration under those procedures.
- 4.3 Some concerns may be resolved by agreed action without the need for investigation.
- 4.4 Within ten working days of a concern being received (excluding anonymous concerns) the individual with whom the employee raised the matter will write to the employee:
- acknowledging the concern has been received
  - indicating how it is proposed to deal with the matter
  - giving an estimate of how long it will take to provide a final response
  - telling the employee whether any initial enquiries have been made, and
  - telling the employee whether further investigations will take place, and if not, the reason why
- 4.5 The amount of contact between the individual(s) considering the issues and the employee who made the protected disclosure will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from the employee in a discreet manner.
- 4.6 When any meeting is arranged, the staff member has the right to be accompanied by a union or workplace representative. The meeting can be 'off site', if requested.

4.7 The academy/OAT will take steps to minimise any difficulties which the staff member may experience as a result of raising a concern and provide any appropriate support. For instance, if the employee is required to give evidence in disciplinary or criminal proceedings. OAT will advise the worker about the procedure.

4.8 The academy/OAT accepts that the employee needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, s/he will receive information about the outcomes of investigations. In addition, s/he will be informed as to what action has been taken to correct working practices where they have been found to be at fault by the investigation.

## 5. Safeguards - Harassment or Victimisation

5.1 The academy/OAT 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 responsible for the malpractice. OAT will not tolerate harassment or victimisation and will take action to protect the staff member when s/he has raised a concern. The Public Interest Disclosure Act 1998 protects whistleblowers from detrimental treatment by their employer.

5.2 This does not mean that if the whistleblower is already the subject of an unrelated disciplinary or redundancy procedures, those procedures will be halted as a result of confidential reporting.

## 6. Confidentiality

6.1 The academy/OAT will respect confidentiality and all steps will be taken to ensure that confidentiality is maintained throughout the process. However, it must be appreciated that the investigation process may reveal the source of the information and that a statement by the employee may be required as part of the evidence.

## 7. Anonymous Allegations

7.1 This policy encourages employees to put their name to their concerns. Concerns expressed anonymously are less capable of being followed up effectively, but they will all be considered.

7.2 In such circumstances the academy/OAT will take the following factors into account when establishing the scope and depth of the investigation:

- the seriousness of the issues raised
- the credibility of the concern, and
- the likelihood of confirming the allegation from attributable sources and information

## 8. Untrue Allegations

8.1 If an employee makes an allegation, but it is not confirmed by the investigation, no action will be taken against that employee.

8.2 If, it is suspected however, that an employee has made malicious or vexatious allegations, consideration will be given to use of the Disciplinary Policy. An investigation may be held with a possible outcome of disciplinary action being against him or her.

8.3 In determining whether an employee has acted maliciously and/or vexatiously the investigator will consider whether the employee was motivated to make the allegation(s) simply out of a desire to pursue a personal vendetta or grudge.

## 9. How the Matter Can Be Taken Further

9.1 This policy is intended to provide staff with an avenue to raise concerns within the individual academy or Ormiston Academies Trust. We hope anyone invoking this procedure will be satisfied with the response given. We encourage direct communication of any serious issue with the Chief Executive via the Head office in Birmingham prior to disclosure to any external bodies. Where possible, whistle blowing to an external body without first going through OAT internal procedure without compelling reasons is not encouraged. If the staff member feels it is right to take the matter outside the organisation, the following are possible contact points:

- The DfE
- Member of Parliament
- National Audit Office
- Health and Safety Executive
- the relevant ombudsman
- the employee's solicitor
- the Charities Commission
- the police
- Public Concern at Work: 020 7404 6609 [www.pcaw.co.uk](http://www.pcaw.co.uk)
- trade union/professional association
- Public Concern at Work (PCaW) is an independent authority on public interest whistleblowing. PCaW focuses on the responsibility of workers to raise concerns about malpractice and on the accountability of those in charge to investigate and remedy such issues. It offers free advice to people concerned about danger or malpractice in the workplace but who are unsure whether or how to raise the matter)

## 10. Review

This policy will be reviewed every two years with the recognised trade unions.