

# The Mercian Trust

# Whistleblowing Policy

<b>Policy Owner</b>	<b>The Mercian Trust</b>
<b>Date Ratified by Trust Board</b>	<b>March 2019</b>
<b>Date to be Reviewed:</b>	<b>March 2021</b>
<b>Date Adopted</b>	<b>March 2019</b>

## **1. Purpose**

**1.1** To set out the Trust policy and procedure for dealing with concerns raised by employees which relate to suspected wrongdoing or dangers at work (see paragraph 3). Allegations of child abuse against teachers and other staff and volunteers is dealt with in accordance with Keeping Children Safe in Education statutory guidance for schools and colleges March 2015 (as amended).

## **2. Background**

**2.1** As employees are often the first to realise that there may be something wrong within the school, it is important they feel able to express their concerns without fear of harassment or victimisation. Otherwise they may find it easier to ignore the concern rather than report it. The Public Interest Disclosure Act 1998 (as amended) recognises this fact and is designed to protect employees, who make certain disclosures of information in 'the public interest', from detriment and/or dismissal. This policy builds on the provisions of the Act.

**2.2** The Trust is committed to the highest possible standard of operation, probity and accountability. In line with that commitment, employees, officers, consultants, contractors, volunteers, casual workers and agency workers with serious concerns are encouraged to come forward and voice those concerns. This policy document makes it clear employees can do so without fear of reprisals. It is intended to encourage and enable employees to raise serious concerns within the school rather than overlooking a problem or alerting anyone external to the school.

**2.3** This policy does not form part of any employee's contract of employment and it may be amended at any time.

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

**3.1** This policy aims to:

- provide avenues for employees to raise concerns internally as a matter of course, and receive feedback on any action taken;
- provide for matters to be dealt with quickly and appropriately; and ensure that concerns are taken seriously and treated consistently and fairly;
- reassure employees that they will be protected from reprisals or victimisation for whistle-blowing where they have a genuine concern;
- allow employees to take the matter further if they are dissatisfied with the response of the Local Governing Body of the school in which they work

**3.3 A whistleblower** is a person who raises a genuine concern relating to the matters below. If employees have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a whistleblowing concern) he/she should report it under this policy. **Whistleblowing** is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- (a) criminal activity;
- (b) miscarriages of justice;
- (c) danger to health and safety;
- (d) damage to the environment;
- (e) failure to comply with any legal or professional obligation or regulatory requirements;
- (f) bribery;
- (g) financial fraud or mismanagement;
- (h) negligence;
- (i) breach of our internal policies and procedures
- (j) conduct likely to damage our reputation;
- (k) unauthorised disclosure of confidential information;
- (l) public examination fraud
- (m) the deliberate concealment of any of the above matters.

**3.4** Before initiating the procedure employees should consider the following:

- the responsibility for expressing concerns about unacceptable practice or behaviour rests with all employees;
- employees should use line manager or team meetings and other opportunities to raise questions and seek clarification on issues which are of day-to-day concern;
- whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, employees must act to prevent an escalation of the problem and to prevent themselves being potentially implicated.

**3.5** This policy should **not** be used for complaints about an employee's personal circumstances, such as the way he/she has been treated at work. In these cases, an employee should use:

- the school's Grievance Procedure (or anti-harassment and bullying policy as appropriate);
- if the matter relates to salary, the salary review procedures documented in the school's pay policy.

## **4. Safeguards**

### **4.1 Harassment or Victimisation**

**4.1.1** 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 responsible for the malpractice. The Trust will not tolerate harassment or victimisation and will take action to protect employees when they have a genuine concern.

**4.1.2** This does not mean that if an employee is already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted as a result of that employee raising a concern under this whistleblowing policy.

## **4.2 Confidentiality**

**4.2.1** We hope that staff will feel able to voice whistleblowing concerns openly under this policy. The Trust's Executive team and / or the Trust Board will make every effort to protect an employee's identity if confidentiality is requested.

**4.2.2** As indicated above, identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed, for example if disclosure is required by a government or regulatory body, the police, the authorities, or other such organisations to whom the Trust is required to disclose. Where disclosure of information in order to investigate the matter is likely to result in the identity of the employee becoming known, the Trust will ensure that the employee is informed before disclosure and that such steps will be taken to avoid as far as possible and forms of harassment, bullying or unacceptable behaviour toward the employee from persons involved in the allegation or other members of staff.

## **4.3 Anonymous Allegations**

**4.3.1** Employees are encouraged to put their name to an allegation. Proper investigation may be more difficult or impossible if we cannot obtain further information and it is also more difficult to establish whether allegations are credible. Anonymous allegations will be considered at the discretion of the Trust Executive team and / or the Trust Board. In exercising the 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.

## **4.4 Untrue Allegations**

**4.4.1** If an employee makes an allegation where he / she has a genuine concern, but it is not confirmed by the investigation, no action will be taken against that employee. If, however, we conclude that an employee has made malicious or vexatious allegations, or with a view to personal gain, disciplinary action may be taken against that employee in accordance with the Trust's disciplinary policy.

## **4.5 Unfounded Allegations**

**4.5.1** Following investigation, allegations may be confirmed as unfounded. This outcome will be notified to the employee who raised the concern, who will be informed that the Trust Executive team and / or Trust Board deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

## **4.6 Support to Employees**

**4.6.1** It is recognised that raising concerns can be difficult and stressful. Advice and support will be made available, as appropriate, to both the employee(s) raising the concerns and any employee(s) subject to investigation.

## **5. How to raise a Concern**

**5.1** As a first step, an employee should normally raise concerns with a member of the Leadership Group within their School / The Trust. Leadership Group is defined as any of the parties referred to in the paragraph below.

**5.2** An employee should raise their concerns with their immediate line manager or their line manager's line manager. This depends, however, on the seriousness and sensitivity of the issues and who is involved. For example, if an employee believes that their immediate line manager or their line manager is involved, s/he should approach the Head Teacher / Principal, or the Chair of the Local Governing Body of the relevant school. If a concern relates to a Head Teacher / Principal, or the Chair of the Local Governing Body, of the school, the employee may approach the Chief Executive Officer (CEO) of the Trust, or a member of the Trust Board. If the whistleblowing relates to the CEO, an employee can approach a Trustee or the Trust Board directly. An employee can by-pass these arrangements if s/he feels the overall management of a school, the Local Governing Body of a school, the overall management of the Trust, or the Trust Board is engaged in an improper course of action. In this case please refer to section 7 below.

**5.3** Concerns should generally be 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.

**5.4** The earlier an employee expresses the concern, the easier it is to take action.

**5.5** Although an employee is not expected to prove the truth of an allegation, s/he will need to demonstrate to the person contacted that there are sufficient grounds for the concern.

**5.6** In some instances it may be appropriate for an employee to ask the trade union to raise a matter on the employee's behalf.

**5.7** At each meeting under this policy the employee may bring a colleague or trade union representative. The companion must respect the confidentiality of the disclosure and any subsequent investigation.

## **6. The Role of the Leadership Group**

**6.1** A member of any of the Leadership Group identified in 5.2 above (Leadership Member), may be informed by an employee about concern(s) and that s/he is "blowing the whistle" within the procedure in person; or in writing or over the phone.

**6.2** The Leadership Member should respond immediately by arranging to meet with the employee to discuss the concern(s) as soon as possible. The matter will be dealt with in three stages, as set out below.

### **6.3 Stage One:**

**6.3.1** At the initial meeting the Leadership Member should establish that:

- there is genuine cause and sufficient grounds for the concern; and
- the concern has been appropriately raised via the Whistleblowing Policy.

**6.3.2** The Leadership Member should ask the employee, to put their concern(s) in writing, if s/he has not already done so. If the employee is unable to do this the Leadership Member will take down a written summary of his/her concern/s and provide him/her with a copy after the meeting. The Leadership Member should make notes of the discussions with the employee. The employee's letter and / or Leadership Member's notes should make it clear that the employee is raising the issue via the whistle-blowing procedure and provide:

- the background and history of the concerns; and
- names, dates and places (where possible); and
- the reasons why the employee is particularly concerned about the situation.

**6.3.3** The employee should be asked to date and sign their letter and/or the notes of any discussion. The Leadership Member should positively encourage the employee to do this, as a concern expressed anonymously is much less powerful and much more difficult to address, especially if the letter/notes become evidence in other proceedings, e.g. an internal disciplinary hearing.

**6.3.4** The Leadership Member should follow the policy as set out above and in particular explain to the employee:

- who he/she will need to speak to, to determine the next steps (e.g. Head teacher / Principal or CEO)
- what steps s/he intends to take to address the concern;
- how s/he will communicate with the employee during and at the end of the process. It should be noted that the need for confidentiality may prevent the school giving the employee specific details of any necessary investigation or any necessary disciplinary action taken as a result;
- that the employee will receive a written response within ten working days;
- that their identity will be protected as far as possible, but should the investigation into the concern require the employee to be named as the source of the information, that this will be discussed with the employee before their name is disclosed;
- that the Trust will do all that it can to protect the employee from discrimination and/or victimisation;
- that the matter will be taken seriously and investigated immediately;
- that if the employee's concern, though raised as a genuine concern, is not confirmed by the investigation, no punitive action will be taken against them;
- if clear evidence is uncovered during the investigation that s/he has made a malicious or vexatious allegation, disciplinary action may be taken against them; and
- the investigation may confirm their allegations to be unfounded in which case the Trust will deem the matter to be concluded unless new evidence becomes available.

## **6.4 Stage Two:**

**6.4.1** Following the initial meeting with the employee, the Leadership Member should consult with the Head Teacher / Principal, Chair of the Local Governing Body, CEO, Trustee or Trust Board to determine whether an investigation is appropriate and, if so, what form it should take. A record should be made of the decisions and/or agreed actions.

**6.4.2** It may be necessary, with anonymous allegations, to consider whether it is possible to take any further action. When making this decision, Leadership Members should take the following factors into account:

- the seriousness of the issue(s) raised;
- the credibility of the concern(s); and
- the likelihood of confirming the allegation(s) from attributable sources.

**6.4.3** In some cases, it may be possible to resolve the concern(s) simply, by agreed action or an explanation regarding the concern(s), without the need for further investigation. However, depending on the nature of the concern(s) it may be necessary for concern(s) to:

- be investigated internally;
- be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry.

**6.4.4** Leadership Members should have a working knowledge and understanding of other school policies and procedures, e.g. grievance, disciplinary, harassment, child protection procedures, to ensure that concerns raised by employees are addressed via the appropriate procedure/process. Advice is available via the Trust and / or its HR advisers.

## **6.5 Stage Three**

**6.5.1** Within ten working days of a concern being received, the Leadership Member receiving the concern must write to the employee:

- acknowledging that the concern has been received;
- indicating how they propose to deal with the matter;
- giving an estimate of how long it will take to provide a final response; and / or telling the employee whether any initial enquiries have been made;
- informing them if further investigations will take place, or if not, why not;
- letting the employee know when s/he will receive further details if the situation is not yet resolved.

## **7. Raising Concerns Outside of the Trust**

**7.1** The aim of this policy is to provide an internal mechanism for reporting, investigation and remedying any wrongdoing in the workplace. In most cases the employee should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for the employee to report his/her concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. Employees are strongly encouraged to seek advice before reporting a concern to anyone external. If an employee is not satisfied with the Trust's response, the Leadership Member should ensure that s/he is made aware with whom s/he may raise the matter externally, as follows:

'Public Concern at Work' Tel no 0207 404 6609\*;

A recognised trade union;

A senior Local Authority Officer;

The Department for Education or the Education & Skills Funding Agency

The Trust's external Auditor;

Relevant professional bodies or regulatory organisations; or

A solicitor;

*\*Public Concern at Work is a registered charity that employees can contact for advice to assist them in raising concerns about poor practice at work. The charity also provides advice to employers as to the possible ways to address these concerns.*

**7.2** The Leadership Member should stress to the employee that if s/he chooses to take a concern outside the Trust, it is the employee's responsibility to ensure that confidential information is not disclosed, i.e. confidential information, in whatever format, is not handed over to a third party, unless subsequently required to be handed over by the appropriate authorities (a government department, the Police, etc).

## **8. Monitoring and Review**

**8.1** The Trust Board is responsible for setting this policy and the procedures contained within the policy. The policy / procedure will be reviewed every 2 years, unless circumstances warrant review prior to this date.

**8.2** The Head Teacher / Principal of each school within the Trust will be responsible for monitoring the implementation and effectiveness of this policy / procedure and reporting this back to the CEO of the Trust.