

WHISTLE BLOWING PROCEDURE

1 INTRODUCTION

- 1.1 There is a balance to be struck between the right of an employee to speak freely on a range of matters and the right of Bradford Academy or its employees to protect themselves against false and malicious accusations.
- 1.2 A whistle blowing procedure establishes a way in which concerns about malpractice may properly be raised in the Academy and if necessary outside the Academy.

2 DEFINITION

Whistle blowing is the reporting by workers or ex-workers, of wrongdoing such as fraud, malpractice, mismanagement, breach of health and safety law or any other illegal or unethical act either on the part of management, the Governing Body or by fellow employees. Workers may include contractors and agency workers.

3 PRINCIPLES SUPPORTING THE PROCEDURE

3.1 *Create an ethical, open culture:*

Write, publish and communicate a code of conduct.

3.2 *Establish safe routes for communications of concerns:*

Appoint individuals or a group outside the normal line management to receive complaints of irregularities or other concerns.

3.3 *Protect the whistle blower:*

Make it clear that the Academy will support and not discriminate against concerned employees provided any claim is made in good faith.

3.4 *Establish a fair and impartial investigative procedure:*

Make sure that the Academy responds to the concern by focusing on the problem, rather than denigrating the messenger.

3.5 *Remind staff of the duty of confidentiality:*

The duty of fidelity is implied by the law in every contract of employment and prohibits employees from disclosing employers' confidential information, unless it is in the public interest that information is disclosed or unless the Academy fails to properly consider or deal with the issue.

3.6 *Safeguard against abuse of the procedure:*

Ensure that the malicious raising of unfounded allegations is recognised as a disciplinary offence.

3.7 *Uphold the right to disclose a concern:*

An employee has the right to disclose a concern/issue if the Academy does not deal with the matter.

3.8 *Involve governors and staff in developing the procedure:*

To be effective there should be a sense of organisational ownership of a whistle blowing procedure.

3.9 *Review:*

Ensure there is a review mechanism using the feedback from who may have the whistle blowing procedure.

4 LEGISLATION

4.1 The Public Interest Disclosure Act 1998 is designed to protect 'whistle blowers' from detriment and unfair dismissal. The people protected by the Act include workers, employees, third party contractor staff, agency workers and work experience providers.

4.2 Students may also have information which should be raised in the public interest and there should be proper procedures in place for them to air their concerns; e.g. a students' complaints procedure.

5 THE PROCEDURE

5.1 All parties need to agree that the issue raised will be kept confidential while the procedure is being used.

5.2 The Representer (the person raising the concern) should:

- i Raise their concern with their line manager or the Principal. This may be done orally or in writing. The Representer has the right to have the matter treated confidentially.
- ii If the line manager believes the concern to be genuine and that it is appropriate to use the Whistle Blowing procedure, the manager should contact the Clerk to the Governing Body (the Assessor).
- iii Should it be alleged that the Clerk to the Governing Body is involved in the alleged malpractice, a senior manager should be asked to act as Assessor.
- iv If the Representer feels unable to raise their concern with their line manager or the Principal in the first instance, they may contact the Assessor direct. If this occurs the Representer will be asked to justify why they feel unable to raise the concern with their line manager or the Principal.

5.3 The Assessor should:



- i interview the Representer within seven working days, in confidence, or earlier if there is an immediate danger to loss of life or serious injury;
 - ii obtain as much information as possible from the Representer about the grounds for the belief of malpractice;
 - iii consult with the Representer about further steps which could be taken;
 - iv inform the Representer of appropriate routes if the matter does not fall within the Academy's Whistle blowing Procedure;
 - v report all matters raised under this procedure to the Governing Body's Responsible Officer.
- 5.4 At the interview with the Assessor, the Representer may be accompanied by a recognised trade union representative or a work colleague. The Assessor may be accompanied by a member of the Academy staff to take notes.
- 5.5 Within ten working days of the interview, the Assessor will recommend to the Principal one or more of the following:
 - i the matter be investigated internally by the Academy;
 - ii the matter be investigated by the external auditors appointed by the Academy;
 - iii the matter be reported to the Department for Education and Skills;
 - iv the matter be reported to the Police;
 - v the route for the member of staff to pursue the matter if it does not fall within this procedure; or
 - vi that no further action is taken by the Academy.
- 5.6 The grounds on which no further action is taken include:
 - i the Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur;
 - ii the Assessor is satisfied that the Representer is not acting in good faith;
 - iii the matter is already (or has been) the subject of proceedings under one of the Academy's other procedures or policies;
 - iv the matter concerned is already the subject of legal proceedings, or has already been referred to the police, the external auditors, the Department for Education and Skills or other public authority.
- 5.7 Should it be alleged that the Principal is involved in the alleged malpractice, the Assessor's recommendation will be made to the Responsible Officer of the Governing Body.

- 5.8 The recipient of the recommendation (Principal or Responsible Officer) will ensure that it is implemented unless there is good reason for not doing so in whole or in part. Such a reason will be reported to the next meeting of the Governing Body.
- 5.9 The Representer's identity will be kept confidential unless the Representer otherwise consents or unless there are grounds to believe that the Representer has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the Representer except:
- i where the Assessor is under a legal obligation to do so;
 - ii where the information is already in the public domain;
 - iii on a strictly confidential basis to a solicitor for the purpose of obtaining legal advice
 - iv where it is essential that the Representer provides evidence at a disciplinary hearing or other proceedings.
- 5.10 The conclusion of any agreed investigation will be reported by the Assessor to the Representer within twenty eight days.
- 5.11 All responses to the Representer will be made in writing and sent to the Representer's home address.
- 5.12 If the Representer has not had a response within the above time limits, he or she may appeal to the Academy's external auditors, but will inform the Assessor before doing so.
- 5.13 The Representer may at any time disclose the matter on a confidential basis to a solicitor for the purpose of taking legal advice.

6 MALICIOUS ACCUSATIONS

- 6.1 Deliberately false or malicious accusations made by a Representer will be dealt with under the Academy's disciplinary procedure.

7 EXTERNAL BODIES

- 7.1 Whistle blowing to an external body without first going through the internal procedure is inadvisable without compelling reasons. A reason may be that the Representer is not content with the conclusion of the Assessor. In particular, this means being careful about what is said to the media. Compelling reasons could be the involvement of the senior managers, serious health and safety issues or possible discrimination. The external bodies which could be used are:

- i Department for Children, Families and Schools
- ii Member of Parliament
- iii National Audit Office
- iv Health and Safety Executive.
- v Police

- 7.2 The Academy will ensure the Representer is protected from any form of victimisation or discrimination.