



**PONTEFRACT**

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ACADEMIES TRUST

## **Whistleblowing Policy**

Trust Board Approval Date	15 July 2019
Effective Date	1 September 2019
Planned Review Date	July 2022
Access	Internet
Owner	Director of Operations

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# 1. Introduction

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- 1.1 Pontefract Academies Trust is committed to the highest possible standards of conduct and encourages individuals, (refer to 1.5 below for details of who the policy applies to), with concerns about wrongdoing within the Trust to come forward and report those concerns. This process is commonly referred to as “whistleblowing” and the aim of this policy is to give detailed advice and reassurance to persons who wish to “blow the whistle” by reporting wrongdoing to those who can make a difference.
- 1.2 This policy acknowledges and incorporates the specific statutory rights and protection given to employees by the Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998, which applies to certain kinds of disclosure termed “protected disclosure”.

The Employment Rights Act 1996 as amended by the Public Interest Disclosure Act 1998 protects workers who make a “protected disclosure” from dismissal, selection for redundancy or from being subjected to any other detriment in employment as a result of raising a concern about wrongdoing. Consequently, if concerns are raised which fall into one of six categories of wrongdoing, this will be a “protected disclosure” provided that the specific requirements for that category of wrongdoing are met in that the concern is raised to the proper person or organisation. These six categories are:

- Crimes;
- Failure to comply with legal obligations;
- Miscarriage of justice;
- Risks to Health & Safety;
- Damage to the environment;
- Covering up any of the above.

The legal requirements for making a “protected disclosure” about each of these categories of wrongdoing are different for each category. Further information about these requirements is set out in the attached Protected Disclosure Guidance (Annex 1).

- 1.3 Provided that you are acting in good faith when making a disclosure and you have a reasonable belief that the information disclosed tends to show that wrongdoing has occurred, is occurring or is likely to occur in the future, it does not matter if you subsequently realise that you are mistaken. You do not have to specifically prove anything in order to have your concerns about wrongdoing investigated - the message the Trust wishes to give to you is **‘if in doubt – raise it’**. Employees are expected to co-operate fully with any resulting investigation.
- 1.4 The Trust Board will consider the information received from a whistleblowing disclosure, however the decision as to whether or not to investigate, and the extent of that investigation will remain the Trust Board’s.
- 1.5 This policy applies to all employees, Trustees, Local Governors, contractors acting under the control of the Trust and supply/agency workers and partnership organisations, which chose to adopt this policy. The provisions of this Policy are not directly available

# 1. Introduction

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to members of the public. Members of the public, who wish to raise a concern about any aspect of the Trust's work, including wrongdoing, should follow the Trust's Complaints Procedure.

## 2. Aims and Scope

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- 2.1 The aim of this Policy is to:
- Encourage the internal reporting of wrongdoing in a safe and constructive manner;
  - Provide avenues for you to raise concerns about wrongdoing and receive feedback on any action taken by the Trust in response to your concerns;
  - Allow you to take the matter further if you are dissatisfied with the Trust's response to your concerns;
  - Reassure you that provided you disclose your concerns appropriately and in accordance with this policy, you will be protected from possible reprisals or victimisation.
  - Identify ways to report concerns to the appropriate regulator or outside body;
- 2.2 All organisations face the risk of things going wrong or of unknowingly harbouring wrongdoers. The Trust believes it has a duty to identify such situations and take the appropriate measures to remedy the situation. By encouraging a culture of openness the Trust believes it can help prevent wrongdoing occurring both now and in the future.
- 2.3 The Trust has existing procedures in place to enable you to raise complaints about a variety of issues relating to **your own employment through the Trust's Grievance Procedure**. The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the Trust's Grievance Procedure and you do not need to raise a grievance in order to disclose a concern about wrongdoing.

Any concern that you have about wrongdoing within the Trust can and should be reported under this Policy. If you fail to report your concerns, you could by your silence become implicated in the wrongdoing.

Your concern may be about something that:

- Is unlawful, e.g. fraud, bribery, corruption;
- Is against the Trust's Articles of Association, Master Funding Agreement, Financial Regulations and/or other policies;
- Is against the requirements of the EFA Academies Financial Handbook;
- Falls below established standards or practice;
- Amounts to improper conduct;
- Amounts to a failure to comply with a legal duty, e.g. a breach of a statutory duty;
- Amounts to a miscarriage of justice;
- Is a health and safety risk, including risks to the public as well as other employees;
- Damages the environment;
- Comprises deliberately covering up of any of the above.

If your concern is in relation to any wrongdoing to Children and/or Vulnerable Persons, further information and guidance on how to raise such concerns can be found in the Safeguarding and Child Protection Policy and procedures.

## 2. Aims and Scope

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By knowing about wrongdoing at an early stage, the Trust has the chance to take the necessary steps to safeguard its interests. The message the Trust wishes to give you is that you must not hesitate to “blow the whistle” on wrongdoing.

### 2.4 **Confidentiality**

All concerns about wrongdoing made under this Policy will be treated confidentially and, unless you agree, the Trust will do its best to protect your identity. However, you must appreciate that the investigation process may reveal who raised the concern and as part of this investigation, you may be required to provide a statement to the Trust or to an external body, for example the Police or another appropriate enforcement agency.

## 3. Raising a Concern

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- 3.1 In most circumstances you should raise concerns with your Executive Director/Director /Head of School/Line Manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of malpractice. For example, if you believe that an Executive Director is involved then you should approach the Chief Executive Officer.
- 3.2 Although concerns about wrongdoing can be raised orally or in writing, the Trust would encourage you to put them in writing, setting out the background and history of the concern and giving names, dates, places and amounts where possible, providing as much information as you have available. You must fully co-operate with any investigation that is instigated, especially if your concerns relate to the welfare of children or vulnerable persons. You may wish to involve your Trade Union representative or other advisory body such as the Citizen's Advice Bureau at this stage.
- 3.3 The Trust also encourages you to put your name to your concerns. Concerns expressed anonymously will be considered at the discretion of the Trust and in exercising this discretion; the Trust will take into account the seriousness of the issues raised, the credibility of the concern and the likelihood of corroboration from other sources.
- 3.4 The Trust does not expect you to prove that the wrongdoing has occurred or is occurring or is likely to occur in the future but you will need to show to the person you contact that you have sufficient grounds for your concern and that the information disclosed tends to show the wrongdoing. Advice and guidance on how to pursue matters of concern may be obtained from the CEO, Executive Director/Director, Head of School, a union representative or The Chair of the Trust. As appropriate.
- 3.5 Any concerns about wrongdoing within the Trust which you do not raise in good faith, for example **concerns that you raise maliciously, for revenge or for personal gain, may result in action taken against you in accordance with the Trust's Disciplinary Procedure**. You help to show your good faith by telling the Trust all that you know about the matters you raise.
- 3.6 If you are already the subject of any other employment procedure this will not be affected as a result of you raising a concern about wrongdoing under this Policy.
- 3.7 If you feel unable to raise your concerns about wrongdoing internally or feel dissatisfied with an internal investigation into your concerns, the Trust acknowledges that you may be justified in contacting a relevant external organisation.
- 3.8 The Secretary of State has prescribed a number of external organisations for the purpose of raising a concern about wrongdoing, in the event that the more stringent conditions regarding external disclosure are met. This list can be found here: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>
- 3.9 If you choose to disclose your concern outside the Trust, you must take care to ensure that you do not disclose confidential or privileged information. Examples of information that was given to the Trust in confidence (either explicitly or where it is clear from the

## 3. Raising a Concern

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circumstances that there is an expectation that the information will not be passed on) are

- information that would enable a child or other vulnerable person to be identified
- commercially sensitive information
- third party personal financial information
- information that is held as part of court proceedings where the information has not been made public
- information that could affect national security
- legal advice given to the Trust

**Where confidential or privileged information is inappropriately disclosed, you may be subject to disciplinary action in accordance with the Disciplinary Procedure.**

## 4. How the Trust will Respond

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- 4.1 The action taken by the Trust will depend upon the nature of the concern that is raised.
- 4.2 In most instances, it is expected that in order to protect individuals and the Trust, initial enquiries will be made to decide whether a formal investigation is required and, if so, what form this investigation will take. At this stage, the person dealing with the initial whistleblowing disclosure, in consultation with the Director of Operations where deemed appropriate, will then take the decision to:
- Complete the investigation internally using an independent and impartial Trustee or leader with delegated responsibility.

They will also determine the terms of reference for the investigation; or

- Refer the matter to an external body for them to investigate;
- Refer the matter to the Trust's External Auditor; or
- Refer the matter directly to the Police; or
- Organise an independent inquiry; or
- Refer the matter for consideration under any other existing Trust procedure as may be appropriate in the circumstances; or
- Take no further action

If the disclosure has been made directly to the Director of Operations (s)he will take the decision set out above, unless (s)he considers that it should be referred to the Chair of the Audit and Risk Committee.

- 4.3 The Trust would also wish to point out that some concerns about wrongdoing may be resolved by agreed action without the need for further investigation.
- 4.4 Within **10** working days , or if this is not possible as soon as reasonably practicable, on receipt of your concern about wrongdoing, the Trust will write to you, at your contact address, with the following information:
- An acknowledgement that your concern has been received;
  - An indication of what happens next;

And when practically possible

- An estimate of how long it will take to provide you with a final response and why it will take this long;
- If applicable, an explanation as to why it may not be appropriate to carry out a formal investigation.

- 4.5 The amount of contact between you and the Investigating Officer will depend on the nature of the concern about wrongdoing you have raised, the potential difficulties involved and the clarity of the information provided.

## 4. How the Trust will Respond

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If it is necessary to seek further information from you, a meeting will be arranged with you, at which you will have the right, if you wish, to be accompanied by your Trade Union representative or work colleague who is not involved in the area of work to which the concern about wrongdoing relates or another advisory body such as the citizens advice bureau. At your request, any meeting may be held away from your workplace and / or outside working hours if appropriate.

- 4.6 The Trust will attempt to resolve the matter within **20** working days of your concern being raised, or if this is not possible as soon as reasonably practicable. If the matter cannot be resolved within this time scale, the Trust will keep you regularly informed of how the concern you raised is being dealt with.
- 4.7 The Trust accepts that employees raising a concern about wrongdoing need to be assured that the matter has been properly addressed. Consequently, subject to legal constraints, the person raising the concern will be notified of the outcome of any investigation.
- 4.8 The outcomes of all formal Whistleblowing investigations will be reported to the Audit and Risk committee by the Director of Operations who will ensure a record of all Whistleblowing cases are collated.
- 4.9 It is recognised that instances may arise where a concern has been raised but not proven, that results in the whistleblower and accused person resuming a working relationship together. This in turn may give rise to concerns of potential victimisation or harassment.
- 4.10 The Trust recognises that the decision to raise a concern about wrongdoing can be a difficult one to make. The Trust will not tolerate harassment or victimisation as a result of you raising a concern and will take action to protect you when your disclosure was made in good faith and you had a reasonable belief that the information disclosed tended to show the wrongdoing.
- 4.11 If you feel that you have suffered harassment, either directly or indirectly, as a result of raising a concern under this policy, you should refer to the Grievance Procedure.

## 5. Implementation of this Policy

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- 5.1 The CEO, Executive Directors, Directors, Heads of School and leaders with delegated responsibilities within the Trust are responsible for ensuring that all employees are made aware of this Policy. They will support this by making arrangements to ensure it is included in all induction information.
- 5.2 The Whistleblowing Policy will be reviewed by the Trust Audit and Risk Committee on a tri-annual basis or earlier after taking account of all incidents of whistleblowing to ensure that it continues to uphold the highest standards of conduct and openness. .

The Trust Board will approve the policy for implementation following consideration and recommendation from the Trust Audit and Risk Committee.

## Annex 1: Protected Disclosure Guidance

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### **The Six Categories of Wrongdoing – Requirements for Raising a Concern**

- **Crime**

You must have a reasonable belief that your concern tends to show that a criminal offence has been committed, is being committed or is likely to be committed.

- **Failure to Comply with Legal Obligations**

You must have a reasonable belief that your concern tends to show that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject. The legal obligation must exist - it is not enough that you merely think the legal obligation exists.

- **Miscarriage of Justice**

You must have a reasonable belief that your concern tends to show that a miscarriage of justice has occurred, is occurring or is likely to occur.

- **Risks to Health & Safety**

You must have a reasonable belief that your concern tends to show that the health and safety of any individual has been, is being or is likely to be endangered.

- **Damage to the Environment**

You must have a reasonable belief that your concern tends to show that the environment has been, is being or is likely to be damaged.

- **Covering up any of the above**

You must have a reasonable belief that your concern tends to show that information tending to show any of the above has been is being or is likely to be deliberately concealed.

Notes:-

If by raising your concern, you commit an offence, this will not be a protected disclosure.

If you raise a concern in the course of obtaining legal advice and a claim of legal professional privilege could be maintained in legal proceedings, this will not be a protected disclosure.

You must raise your concern in good faith and have a reasonable belief that your concern is substantially true. You must not raise your concern for personal gain.

You must raise your concern in accordance with this policy.

## Annex 2: Schedule of Updates

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<b>Trust Board Approval</b>		<b>Implementation Date</b>
2 July 2014	Whistleblowing Policy	1 September 2014
31 August 2016	Whistleblowing Policy	1 September 2016
15 July 2019	Whistleblowing Policy	1 September 2019