



The Elliot Foundation Academies Trust

Whistleblowing Policy

April 2017

Date approved by TEFAT Board	7 April 2017
Date of review	April 2019

INTRODUCTION

TEFAT is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, volunteers, and anyone associated with TEFAT Academies who has serious concerns about any aspect of practices encountered within an Academy to come forward and voice those concerns without fear of reprisals. This Policy is to support staff wanting to raise such issues. It is recognised that certain cases will have to proceed on a confidential basis.

Confidentiality is guaranteed at the point of making a protected disclosure and will be maintained during investigations and hearings other than where there is a need for disclosure of identity due to cross examination of the staff member as a witness in any subsequent procedure.

Whistleblowing does not have to be directly to the employer. An employee can inform other bodies such as the police in cases of fraud and does not have to inform the employer. The Whistleblowing Act ensures that will be anonymous and confidentiality is protected unless the disclosure is proven to be vexatious.

Whilst this policy is intended to encourage employees to raise serious concerns within the Trust, it does not override workers' legal rights to make a protected disclosure to certain third parties under the Public Disclosures Act 1988 (PIDA). Employees must reasonably believe that their disclosures are made in the public interest.

A purpose of the policy is to give all members of staff the confidence to come forward through agreed procedures and without fear of recrimination, to bring to the attention of the Principal, line manager, manager or governor or to external bodies (e.g police) any serious impropriety, breach of procedure or raise issues of concern. The issues covered by the policy include things that may be:

- Unlawful or a criminal offence
- Fraudulent or improper use of the academy's money or assets
- Abuse of students or of other employees
- Breaches of child protection policy/legislation
- Breach of Health and Safety policy/legislation including dangerous practices at work
- receiving any gift or advantage that demonstrates a conflict of interest
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Damage to the environment
- Concealment of any of the above

A qualifying disclosure under PIDA are defined as:

“any disclosure of information which, in the reasonable belief of the worker making the disclosure is made in the public interest and tends to show one or more of the

following –

- *That a criminal offence has been committed, is being committed or is likely to be committed;*
- *That a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject;*
- *That a miscarriage of justice has occurred, is occurring or is likely to occur;*
- *That the health or safety of any individual has been, is being or is likely to be endangered;*
- *That the environment has been, is being or is likely to be damaged; or*
- *That information tending to show any matter falling within any one of the preceding paragraphs has been, or is likely to be deliberately concealed.”*

What is Whistleblowing

Whistleblowing is the reporting of suspected wrongdoing or dangers in relation to our activities. This includes bribery, fraud or other criminal activity, miscarriages of justice, health and safety risks, damage to the environment and any breach of legal or professional obligations.

Whistleblowing law is in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have ‘blown the whistle’.

SCOPE

This policy applied to Trust Board members, governors, management, all staff and external contractors.

AIMS

The aim of this policy is to provide safe and confidential avenues for all staff, volunteers and those associated with the Academy to notify the Principal, line manager, manager, governor or other responsible person of any reasonable suspicion of illegal or improper conduct. The procedure requires all employees to act responsibly to uphold the reputation of the academy and to help maintain public confidence. It is a procedure in which

the Principal will be expected to act swiftly and constructively in the investigation on any concerns in accordance with the academy’s disciplinary procedure. However, concern about a colleague’s professional capability should not be dealt with using this procedure.

It will result in:

- Staff and other stakeholders being aware of how to express concerns in regards to suspicion of bad practice
- A recognition that systems are in place to prevent victimisation, harassment and / or intimidation of staff who raise concerns
- An atmosphere that enables and encourages staff to raise serious concerns
- A clear and understandable process regarding taking issues of concern further if they are not satisfied with the response and provide feedback at all stages regarding progress being made

WHEN SHOULD IT BE USED

- An employee who is not sure whether the conduct he/she is concerned about does constitute illegal or improper conduct or is unsure about how to proceed can contact their trade union representative or HR representative.
- The procedure is not designed to replace or be used as an alternative to the grievance procedure, which should be used where an employee is only aggrieved about his/her own situation. Employees who are worried about wrong doing do not necessarily have a personal grievance.
- Financial regulations require any employee who suspects fraud, corruption or other financial irregularity to ensure this is reported to the TEFAT Director of Finance or in certain cases, the EFA, for possible investigation. Normally you must first report any suspicion of such an irregularity to the Principal, who will in turn report it to the Director of Finance. In most cases this will be done through your line management structure. In addition, advice should be sought from your professional body.

CONFIDENTIALITY/ANONYMITY

- It is recognised that the person raising the concern may wish to raise a concern in confidence. Individuals who raise concerns will not have their identity disclosed without their prior consent. It must be appreciated, however, that in some situations the investigation process may not be concluded unless the source of the information and a statement by the individual is produced as part of the evidence.
- This policy encourages the person raising the concern to put their name to any allegation. Concerns expressed anonymously are more difficult to investigate but will still be investigated. In exercising this discretion, the factors to be taken into account would include:
 - o The seriousness of the issued raised;
 - o The credibility of the concern; and
 - o The likelihood of confirming the allegation from attributable sources.
- If an allegation is made but subsequently, following an investigation, not

up held then no action will be taken against the instigator providing they:

- Reasonably believe that their disclosures are made in the public interest.

- Believe that the information disclosed, and any allegation contained in it, is substantially true

It should be noted that if a malicious or false allegation is made, disciplinary action may be considered.

MECHANISM FOR RAISING CONCERNS

- Where the issue concerns the Principal, or having made a report it is believed that he/she has failed to take appropriate action, it should be brought to the attention of the Chair of Governors.
- Where the issue concerns the Chair of Governors it should be brought to the attention of the Director of HR and Governance (TEFAT)
- Where the issue concerns a member of staff, other than the Principal, it should be brought to the attention of the Principal or Director of HR and Governance.

- Employees who feel unable to follow this route, for whatever reason, should contact their trade union representative or HR representative.
- Depending on the nature of the concern the complainant will be asked to provide evidence or information that supports their claim. Normally the complainant will be asked to do this in writing. It would, therefore, be helpful to note down any facts and dates as they happen.
- Employees who want to use the procedure but feel uneasy about it may wish to consult their trade union initially and bring a friend or trade union representative along to any discussions, so long as the third party is independent of the issue.
- Where anonymity is requested efforts will be made to meet the request where appropriate but that might not always be possible. The earlier and more open the expression of concern the easier it will be to take appropriate action.
- Each case will be investigated thoroughly with the aim of informing the complainant of the outcome of any investigation as quickly as possible.

GUIDELINES

- Whenever possible, concerns should be raised in writing and should set out the background and history of the concern, giving names, dates and places if known, as well as the reason why the individual is particularly concerned about the situation. Those who do not feel able to put their concern in writing can meet their line manager.
- The earlier the concern is expressed, the easier it is to take action.
- Although those raising a concern will not be expected to prove the

truth of an allegation, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.

- Individuals may seek advice and support, and also invite their trade union or professional association to raise a matter on their behalf. This would be welcomed and encouraged by the Academy. If an employee makes a disclosure to a trade union rep or official, this will be treated as if it were a disclosure to the employer. Where a trade union representative or official raises the issue on behalf of an employee, the employee will continue to be protected by the workers' legal right to make a protected disclosure and the trade union representative will, by extension, be afforded the same protection.

HOW THE DISCLOSURE WILL BE DEALT WITH

The action taken by the Academy will depend on the nature of the concern.

The Principal/Line Manager will ensure that the concern is:

- Taken seriously
- Investigated internally and an objective assessment of the concern made. Any investigation will be undertaken paying due regard to confidentiality.
- Reported back to the employee or trade union representative/official as to the progress made by a named person/agency appointed to investigate
- A clear timeline set out
- The subject of a written report compiled and shared with the Principal and/or Chair of Governors

If the concern is about the Principal this action will be taken by the Chair of Governors. If the concern is about the Chair of Governors the action will be taken by the Director of HR and Governance (TEFAT).

If the employee making the disclosure is unhappy about the outcome of the investigation they can report their concern to the Director of HR and Governance or to the Clerk to the TEFAT Trust Board

In some circumstances an employee will want to 'blow the whistle' outside of the organisation. In all cases the employee is encouraged to exhaust all internal procedures before contacting external agencies. This whistleblowing policy is designed to discourage external disclosure and to encourage cooperation, cohesiveness and honesty.

An employee may make an external disclosure to an outside agency without losing their 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.

One option for external whistleblowing is via 'prescribed persons'. Prescribed persons are mainly regulators and professional bodies. A complete list of prescribed persons can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510962/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf

Any employee who approaches the media with their concerns is likely to lose their rights under whistleblowing law. In doing so an employee cannot be acting for personal gain and must reasonably believe the information they disclose is substantially true. If an employee bypasses this internal procedure or a prescribed person before contacting the media they must reasonably believe that the organisation will subject them to detriment for making the disclosure internally.

Protection and Support for Whistleblowers

The academy aims to encourage openness and will support whistleblowers who raise genuine concerns under this policy, even if they turn out to be mistaken.

Whistleblowers must not suffer any detrimental treatment as a result of raising a genuine concern. If you believe that you have suffered any such treatment, you should inform the Principal and your trade union representative immediately. If the matter is not remedied you should raise it formally using our Grievance Procedure.

If we conclude that a whistleblower has made false allegations maliciously or with a view to personal gain, the whistleblower may be subject to disciplinary action.

Protection against harassment and victimisation

We recognise 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. We will not tolerate harassment or victimisation and will take action to protect the employee when s/he has raised a concern.

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

If an employee feels they have been treated unfairly as a result of making a disclosure then they can decide to take the case to an employment tribunal. It is strongly advisable for any employee considering this course of action to seek advice from their trade union representative.

Monitoring/Evaluation

A record of all concerns raised under this policy and the outcomes of any investigations will be recorded and maintained confidentially.

The policy will be reviewed every two years in consultation with the trade union representatives.