



# Transform Trust Confidential Reporting Policy

("Whistleblowing")

The Local Governing Body of Pear Tree Community Junior School adopted this policy on 25 February 2018

It will be reviewed annually no later than 31 December 2019.

## Introduction

This document incorporates all the information contained in the TUPE transferred policy from the Local Authority (Derby City). The only changes reflect the change in decision making processes given the LA are no longer the employer.

This policy will undergo review with the recognised Trade Unions and is therefore subject to change.

**The Trust expects employees, and others that are dealt with who have serious concerns about any aspects of the Trust's work, to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.**

- The governing body of this school acknowledges that employees are often the first to realise that there may be something seriously wrong within a school or within the organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues, the school or the Trust. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. This policy is designed to encourage employees to report any concerns they may have by giving them confidence that their concern will be thoroughly investigated and that they will not suffer detriment unless an untrue disclosure is made (see point 6).
- This is a policy of the Multi Academy Trust, approved by representatives of the recognised trade union representatives (when transferred to the MAT) and has been agreed by the governing body of this school. The policy aims to encourage employees to raise such concerns using the internal mechanisms set out below. This policy makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting Policy is intended to encourage and enable employees to raise serious concerns **within** the Trust rather than overlooking a problem or 'blowing the whistle' outside.

## Public Interest Disclosure Act 1998

- 1.1 This act protects workers who 'blow the whistle' about wrongdoing. It makes provision about the kinds of disclosures, which may be protected; the circumstances in which the disclosures are protected; and the persons who may be protected. The provisions introduced by the act protect most workers from being subjected to a detriment by their employer. Detriment may take a number of forms, such as denial of promotion, facilities or training opportunities which the employer would otherwise have offered. Employees may make a claim for unfair dismissal if they are dismissed for making a protected disclosure.
- 1.2 The policy applies to all employees and those contractors working for the Trust and / or on Trust premises including all schools who are members of the Trust.
- 1.3 These procedures are in addition to the Trust / school complaints procedures and other statutory reporting procedures.
- 1.4 The governing body will ensure that all are made aware of this policy.
- 1.5 The Employment Rights Act 1996 already provides protection for employees who, in certain circumstances, raise concerns about health and safety matters. For example, the act already provides that it would be unfair to dismiss an employee who acts to protect him/herself or others from serious and imminent danger.

## Aims and Scope of this Policy

2.1 This policy aims to:

- encourage employees to feel confident in raising serious concerns and to question and act upon concerns about practice;
- provide avenues for employees to raise those concerns and receive feedback on any action taken;
- ensure that employees receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied; and
- reassure employees that they will be protected from possible reprisals provided the worker makes the disclosure in good faith, reasonably believes that the information and any allegation it contains are substantially true and does not act for personal gain.

2.2 There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. The Confidential Reporting Policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other employees;
- damage to the environment;
- the unauthorised use of public funds;
- possible fraud and corruption;
- sexual or physical abuse or any other safeguarding issues;
- other unethical conduct;
- racism or any other discrimination; or
- action to conceal any of the above.

This list is wider than those disclosures covered by the Public Interest Disclosure Act 1998.

2.3 Any serious concerns that staff have about any aspect of service provision or the conduct of staff members or members of the Board of Trustees or others acting on behalf of the Trust can be reported under the Confidential Reporting Policy.

2.4 This may be about something that: -

- Makes staff feel uncomfortable in terms of known standards, their experience or the standards believed the Trust subscribes to;
- is against the Trust and school policies;
- falls below established standards of practice; or
- amounts to improper conduct.

This policy does **not** replace the school's complaints procedure.

## Safeguards & Support

3.1 The Trust and school are committed to good practice and high standards of openness, probity and accountability. The school aims to promote a culture in which employees feels they can raise genuine concerns without fear of subsequent victimisation, discrimination or disadvantage. The school wants to ensure that they are supportive of employees.

3.2 The Trust recognises the difficulty of deciding whether to report a concern. Employees should have nothing to fear if they genuinely believe that what they are saying is true because it is a duty to the employer and those for whom they are providing a service.

3.3 The Trust and school will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees when a concern has been raised in good faith.

- Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect an employee.
- Subject to any legal constraints, the person to whom the complaint was made, or their nominated representative, will keep the employee informed of the progress in relation to the complaint, the investigation etc.

### Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal the employees' identity if they do not so wish. However, employees should appreciate that the investigation process may reveal the source of information and a statement from the employee may be required as part of the evidence. At the appropriate time, staff may be required to come forward as a witness.

### Anonymous Disclosures

This policy encourages employees to put their name to a disclosure, whenever possible.

Concerns expressed anonymously are much less powerful but will be considered at the discretion of the CEO of the Trust.

In exercising this discretion, the factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern;
- the likelihood of confirming the allegation from attributable sources; and
- the level of detail given to allow the complaint to be investigated.

### Untrue Disclosures

- If a disclosure is made in good faith but it is not confirmed by the investigation, no action will be taken against the employee making the allegation.
- If, however, an employee makes a disclosure frivolously, maliciously or for personal gain, disciplinary action may be taken.

### How to Raise a Concern

- Staff may find it easier to raise the matter if there are two (or more) staff who have had the same experience or concerns. The earlier concerns are expressed the easier it is to take action. Staff may wish to speak to their trade union representative or colleague(s) before making a disclosure.

4.1 Employees need to be aware that their colleagues are bound by the same obligations, as they are

themselves, relating to confidential information. If employees share confidential information with union representatives, professional associations or others with a view to using this procedure they will need to ensure that the confidential information is not used inappropriately. The Public Interest Disclosure Act provides protection where information is disclosed in the course of obtaining legal advice. Therefore, when seeking such advice, employees should ensure that in seeking the advice confidential information is not passed on to third parties.

4.2 The first stage requires concerns to be raised with the Headteacher, Chair of the Local Governing Body, CEO or Chair of the Directors of the Trust. The contact details can be found on the Trust/Academy website.

4.3 Concerns may be raised verbally but best practice is for these to be raised in writing. Staff who wish to make a written report are invited to use the following format:

- the background and history of the concern (giving relevant dates);
- the reason why they are particularly concerned about the situation; and
- the fact that the employee is raising the concern under the Whistle Blowing complaints procedure.

4.4 Although staff are not expected to prove beyond doubt the truth of an allegation, they will need to demonstrate to the person contacted that there are reasonable grounds for concern. Where possible, notes should be kept of what the employee has seen/heard/felt. Notes should be dated and copies of all relevant information kept.

4.5 Advice or guidance from the Trust HR Lead should be sought on how to manage the process.

4.6 A trade union or professional association representative, work colleague or a friend may be present during any meetings or interviews in connection with the concerns raised.

### **How the Trust will respond**

5.1 The Trust will respond to concerns. Testing out concerns is not the same as either accepting or rejecting them. This will usually be within 10 working days.

5.2 Where appropriate, the matters raised may:

- be investigated by the governing body, internal audit, or through the schools' disciplinary procedures;
- be referred to the police;
- be referred to the external auditor;
- form the subject of an independent inquiry; and/or
- be referred to the Safeguarding Board.

5.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle that the Trust will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

5.4 Some concerns may be resolved by agreed action without the need for investigation. On occasions, urgent action may be required to be taken before any investigation is conducted.

5.5 Within ten working days of a concern being raised, the responsible person (the head teacher or chair of governors or CEO, in the case of a concern relating to the head teacher) will write to the employee:

- acknowledging that 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;
- supplying the employee with information on support mechanisms; and
- telling the employee whether further investigations will take place and if not, why not.

5.6 Where appropriate, the matters raised may:

- be investigated by management, an appropriately trained investigator or through another appropriate procedure;
- be referred to the police;
- be referred to the external auditor; or
- for the subject of an independent inquiry.

5.7 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take.

5.8 Some concerns may be resolved by agreed action without the need for an investigation. If urgent action is required this will be taken before any investigation is conducted. The amount of contact between the individuals considering the issues and the employee will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Trust will seek further information from the employee.

5.9 An employee can be accompanied by a union or professional association representative or a work colleague at any meeting. If preferred, the meeting should take place away from the workplace. The Trust will take steps to minimise any difficulties that may be experienced as a result of raising a concern. For instance, if an employee is required to give evidence in criminal or disciplinary proceedings the Trust will arrange for this person to receive advice about the procedure.

5.10 The Trust accepts that employees need to be assured that the matter has been properly addressed and, subject to legal constraints, an employee will be informed of the outcome of any investigation.

### **The Responsible Officer**

The CEO has overall responsibility for the maintenance and operation of this policy. The Trust HR Lead will inform governing bodies of any changes agreed.

### **How the Matter Can Be Taken Further**

6.1 This policy is intended to provide employees with an avenue within Transform Trust to raise concerns and hopes employees will be satisfied with any action taken. If staff are not, and they feel it is right to take the matter outside the Trust, the employee may contact Public Concern at Work. This is a charitable organisation which is independent and which specialises in providing free confidential legal advice on how to raise a concern about a serious malpractice at work. Public Concern can also provide advice on whether the circumstances should be reported to an additional outside body such as the Police.

Public Concern at Work can be contacted as follows:

Telephone: 020 7404 6609 (Advice Line)

020 3117 2520 (General Enquiries)

E-mail: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)

Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

The Public Interest Disclosure Act 1998 provides protection to employees who make disclosures outside the organisation. If employees wish to take the matter outside the Trust they may wish to contact:

- The Audit Commission ([www.audit-commission.gov.uk](http://www.audit-commission.gov.uk); tel: 020 7228 1212)
- relevant professional bodies or regulatory organisations;

6.2 The Trust recognises the lawful right of employees to make disclosures to prescribed persons under the terms of the Public Interest Disclosure Act. If an employee does take the matter outside the Trust, s/he should ensure that confidential information is not disclosed. Staff should check with the contact point about matters of confidentiality. This procedure has been written taking into account the terms of the Public Interest Disclosure Act 1998, which protects workers making disclosures about certain matters of concern where those disclosures are made in accordance with the act's provisions.

6.3 The scope of the procedure is wider than the obligations contained in the 1998 Act, which covers:

- criminal offences;
- failures to comply with legal obligations;
- miscarriages of justice;
- endangerment of health and safety; and
- concealment.

6.4 If an employee makes a protected disclosure, the act protects him/her against dismissal for making the disclosure. A disclosure covered by the procedure but not also covered by the act is offered no such protection.

6.5 Workers protected by the provisions (including employees) can complain that they have been subjected to detriment by their employer for making a protected disclosure. An employee can make a claim for unfair dismissal because s/he made a protected disclosure and has been subjected to detriment. A complaint to an employment tribunal should normally be made within three months of the dismissal or detriment.