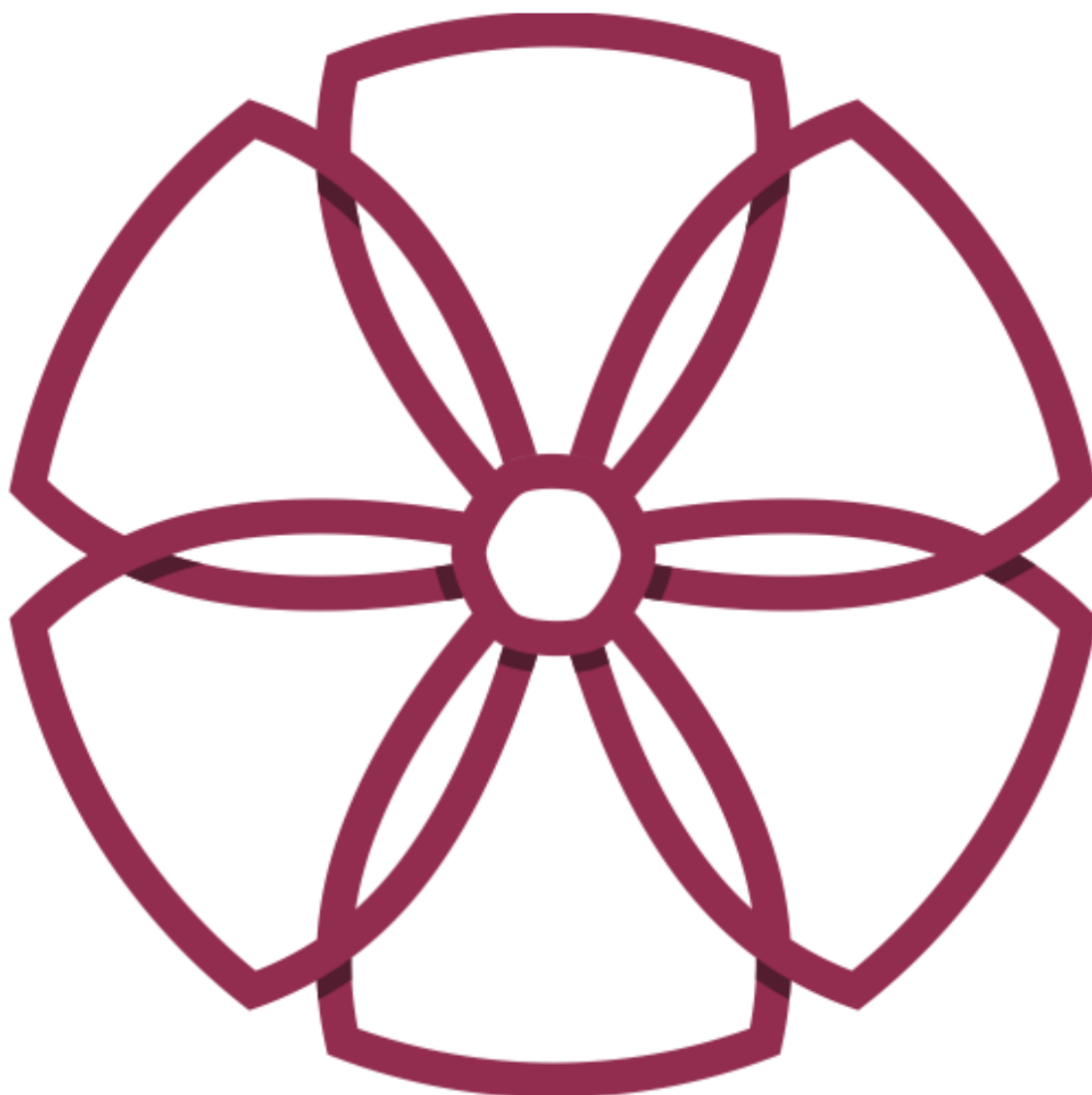




Mercia
Learning Trust
Realising Potential. Transforming Lives.



Whistleblowing Policy

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DOCUMENT CONTROL

Unless there are legislative or regulatory changes in the interim, this policy will be reviewed every 3 years. Should no substantive changes be required at that point, the policy will move to the next review cycle.

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1. Introduction

- 1.1. The Trustees at Mercia Learning Trust ("our trust") are committed to ensuring that standards across our trust are high. All employees are valued as members of our trust community, and we recognise the importance that openness and accountability plays in driving standards of excellence. Employees may often be the first to notice serious wrongdoing and our trust encourages and expects this to be reported without fear of reprisal.
- 1.2. As part of that commitment, we encourage those who work with us, or others with concerns about any aspect of our work, to come forward and express those concerns and this policy sets out how individuals can do that.
- 1.3. Our trust will take seriously any concerns relating to malpractice within the organisation and believes it is important that all members of our trust community feel safe in the knowledge that they can voice any concerns in confidence, without fear of reprisals, and that they will be taken seriously and dealt with appropriately.
- 1.4. A whistleblower is protected by law and will not be treated unfairly because they have 'blown the whistle'.

2. Aims and Scope of this Policy

- 2.1. This policy aims to:
 - 2.1.1. encourage you to raise concerns about malpractice within our trust without fear of reprisal.
 - 2.1.2. to reassure you that your concerns will be taken seriously.
 - 2.1.3. to provide information about how to raise your concerns and explain how our trust will respond.
- 2.2. This policy applies to all employees, former employees and workers of our trust including casual workers, trainees and volunteers and agency workers engaged by our trust.
- 2.3. This policy is for concerns where the interests of other people or the organisation are at risk, and which are not covered by other procedures. It is not intended to be used where other more appropriate procedures are available, for example:
 - 2.3.1. Grievances (see Grievance Policy)
 - 2.3.2. Harassment or Discrimination (see Dignity and Respect at Work Policy)
 - 2.3.3. Child Safeguarding (see Child Protection and Safeguarding Policy)
 - 2.3.4. Parental Complaints (see Complaints Policy)

3. Legislation and Guidance

- 3.1. This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:
 - 3.1.1. Public Interest Disclosure Act 1998
 - 3.1.2. ESFA Academy Trust Handbook
 - 3.1.3. Keeping Children Safe in Education

4. Definitions

- 4.1. Whistleblowing is the term used when an individual raises a genuine concern about certain types of alleged wrongdoing. The wrongdoing must be in the public interest, this means it must affect others for example, the general public.
- 4.2. In the public interest means that the concerns impact others rather than just yourself.
- 4.3. It is not necessary for the disclosure to be of interest to the entire public. The following considerations are often used as a test to establish whether something is within the scope of public interest:
 - 4.3.1. the number of people in the group whose interests the disclosure served.
 - 4.3.2. the nature of the interests and the extent by which individuals are affected by the wrongdoing disclosed.
 - 4.3.3. the nature of the wrongdoing disclosed.
 - 4.3.4. the identity of the alleged wrongdoer.
- 4.4. Qualifying disclosures, as outlined in the Public Interest Disclosure Act, are any of the following:
 - 4.4.1. a criminal offence - for example fraud, corruption or theft has been/likely to be committed.
 - 4.4.2. the breach of a legal obligation by an organisation.
 - 4.4.3. a miscarriage of justice.
 - 4.4.4. someone's health and safety being in danger.

- 4.4.5. damage to the environment has or is likely to occur.
- 4.5. Malpractice covers a wide range of concerns, some examples of malpractice or illegal or unethical practice that should be disclosed include, but are not limited to, the following:
 - 4.5.1. Public funds are being used in an unauthorised manner.
 - 4.5.2. Sexual or physical abuse of any employee or pupil is taking place (subject to our safeguarding procedure in the case of children).
 - 4.5.3. Discrimination is occurring to any employee or pupil as defined within the Equalities Act 2010 (where it has not been successfully addressed through the Dignity and Respect at Work Policy).
 - 4.5.4. Any other form of improper action or conduct is taking place.
 - 4.5.5. Public examination maladministration.
 - 4.5.6. Not reporting a data breach.
 - 4.5.7. Misuse of personal data.
 - 4.5.8. Actions to cause a cyber attack.
 - 4.5.9. Deliberate concealment, or attempts to conceal, information relating to any of the above.

5. Confidentiality

- 5.1. Our trust recognises that you may be reluctant to raise a concern against a fellow colleague and that there may be concerns about jeopardising someone's career, however, the welfare of the pupils in our trust is paramount. You can raise concerns in confidence, and this will be handled sensitively.
- 5.2. Our trust is committed to protecting your identity as far as possible when you raise a concern. There may, however, be occasions where it may not be possible to do this (for example, if our trust is legally obliged to share information, for the purposes of seeking legal advice or if you are asked to give evidence).
- 5.3. Confidentiality is important throughout any investigation and continues to apply once the investigation is completed. Our trust expects all employees to follow its guidelines relating to confidentiality, but this should not prevent you from raising a genuine concern in the public interest.

6. Anonymous or False Allegations

- 6.1. You are strongly encouraged to give your name when raising concerns to aid a more thorough investigation, however, our trust will consider anonymous allegations and investigate these as far as possible with the information available.
- 6.2. You are encouraged to voice your concerns safe in the knowledge that if an allegation is made in good faith but does not prove to be true, no action will be taken against you. However, our trust may act against an employee in accordance with our trust Disciplinary Policy if you have knowingly made false or malicious allegations or allegations for personal gain.

7. Our commitment to you

7.1. Harassment or Victimisation

- 7.2. Our trustees and governors recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal. Our trust will not tolerate harassment or victimisation and will take action to protect employees when they have a genuine concern.
- 7.3. This does not mean that if you are already the subject of internal procedures such as disciplinary or redundancy, that those procedures will be halted because you raised a concern under our whistleblowing policy.

7.4. Support

- 7.5. In any meetings that have a connection to a whistleblowing concern, you have the right to be accompanied by your trade union representative or a work colleague (providing they are not involved in the issue and would not be called as a witness). These meetings might include:
 - 7.5.1. a meeting with your line-manager or other appropriate person to raise your concern.
 - 7.5.2. a meeting with a trust investigation officer in connection with the concern.
 - 7.5.3. taking part as a witness in any action taken as a result of raising the concern.

7.6. Independent Advice

- 7.7. If you are unsure whether to use this policy, or if you want independent advice at any stage, you should contact:

- 7.7.1. your trade union.
- 7.7.2. the independent charity Public Concern at Work whose lawyers are available give you free confidential advice at any point in the process. Their helpline is 020 7404 6609 or email helpline@pcaw.co.uk. For further information, go to [the Public Concern At Work website](#) – it includes guidance on whistleblowing legislation.

8. Raising a concern

- 8.1. Where you have a concern about another employee, it should normally be reported, either in person or in writing, to a member of your Senior Leadership Team, a member of our trust leadership team or chair of trustees depending on the seriousness and sensitivity of the issue and who is involved in the alleged malpractice.
- 8.2. If your concern is about the chair of governors, you should approach our CEO or chair of trustees. If your concern is about the CEO, you should approach our chair of trustees. If your concern is about the chair of trustees, you may approach a 'member' of the trust board via the clerk to the trust board.
- 8.3. Concerns are better raised in writing. Therefore, where a concern is raised verbally in the first instance, you are likely to be invited to set out the background and history of your concern, giving names, dates and places, where possible, and the reason why you are particularly concerned about the situation, in writing. If you are not able to put your concern in writing, you can telephone or arrange to meet the appropriate officer. If you are a member of a trade union, you may find it helpful to take advice from them about putting your concerns in writing.
- 8.4. The earlier you express your concern, the easier it is for us to act. Over time details can be forgotten, or remembered incorrectly, which can make a concern more difficult to investigate and so it will help us if you make a note of your concerns at the time and let us know about them as soon as possible.
- 8.5. You will need to demonstrate that there are sufficient grounds for your concern so it would be useful to provide relevant information including, where possible, but not limited to:
 - 8.5.1. the background and history to the case.
 - 8.5.2. the reason why you are particularly concerned.
 - 8.5.3. any specific details available including names, dates, times and places.
 - 8.5.4. details of any particular conversations that support the concerns.
 - 8.5.5. details of any personal interest that you may have in the matter; and
 - 8.5.6. how you think that things may be put right, if possible.
- 8.6. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

9. How we will respond

- 9.1. Our trust or the school, depending on the allegation, will investigate all allegations and concerns. It should be noted that the act of investigation does not indicate that our trust or the school has accepted the allegations as true.
- 9.2. The matters raised may lead to one of the following actions:
 - 9.2.1. a referral to our trust HR director and/or independent investigator.
 - 9.2.2. an investigation by managers or through the disciplinary process.
 - 9.2.3. an investigation under other procedures such as safeguarding.
 - 9.2.4. an investigation under procedures designed to deal with allegations made against professionals.
 - 9.2.5. a referral to the police.
 - 9.2.6. a referral to the external auditor or other external investigation.
 - 9.2.7. an investigation under other forms of prosecution and inspection such as the protection of public health and safety.
- 9.3. Within ten working days of receiving a concern, our trust will write to you to:
 - 9.3.1. acknowledge that the concern has been received.
 - 9.3.2. indicate how it proposes to deal with the matter.
 - 9.3.3. give an estimate of how long it will take to deal with the matter.
 - 9.3.4. confirm if any initial enquiries have been made.
 - 9.3.5. confirm whether further investigations will take place, and if not, why not.

9.4. Some concerns may be resolved without the need for an investigation.

10. Investigation Process

- 10.1. On receipt of an allegation, the manager/leader concerned will usually discuss the circumstances with our director of HR and hold an interview with the person making the allegation. This will be in confidence and will take place at the earliest opportunity.
- 10.2. The amount of contact between the manager/leader and the person raising the allegation will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided.
- 10.3. During the interview the investigating manager/director of HR will:
 - 10.3.1. gather as much information about the basis of the allegation and record what is discussed.
 - 10.3.2. discuss the next steps with the employee who has raised the allegation and ensure that they fully understand what is going to happen. If the whistleblowing procedure is not going to be followed, this should be explained, and an alternative procedure outlined.
 - 10.3.3. provide support to the employee who has raised the allegation. Our trust recognises that the whistleblower may be worried about their position, getting someone else into trouble or what they suspect may be happening.
- 10.4. On completion of the interview, the investigating manager will consider whether there is cause for concern that requires further investigation or whether no further action should be taken. Where no further action is taken, this may be because:
 - 10.4.1. it is felt there is not enough evidence to warrant a continued investigation and that it is unlikely any malpractice has occurred or will occur.
 - 10.4.2. there is a belief that the whistleblower is not acting in good faith or can demonstrate there is a genuine concern raised in the public interest.
 - 10.4.3. the matter has already been raised and is being investigated separately.
- 10.5. The whistleblower will be informed of the outcome of the meeting or investigation, subject to confidentiality, in writing to their home address, usually within five working days following completion of the investigation.
- 10.6. When any meeting is arranged to discuss your concerns, you have the right, if you so wish, to be accompanied by a trade union representative or a work colleague who is not involved in the area of work to which the concern relates and who also could not be called as witness.

11. How the matter can be taken further

- 11.1. This policy is intended to provide you with an avenue to raise concerns internally and all employees are encouraged and expected to follow the procedure outlined in this policy in the first instance. However, our trust understands that in some cases, employees may not be satisfied with the outcome and may feel it is right to take the matter to external agencies.
- 11.2. Employees should only approach external agencies regarding their concerns without prior discussion internally if:
 - 11.2.1. they feel they are being discriminated against and that there is no internal authority that can be contacted within our trust.
 - 11.2.2. they reasonably believe they will be victimised if they follow internal procedures for whistleblowing.
 - 11.2.3. they believe that the concern they have raised has not been taken seriously or acted upon correctly.
 - 11.2.4. if, having exhausted internal procedures, an allegation is found to be unsubstantiated, the employee has the right to access an appropriate official and independent external body.
- 11.3. An appropriate official may be:
 - 11.3.1. an MP or local council member.
 - 11.3.2. our trust's external auditors.
 - 11.3.3. relevant professional bodies or regulatory organisations such as the Education and Skills Funding Agency (ESFA), The Financial Conduct Authority (FCA), Her Majesty's Revenue and Customs, the Department of Education or Ofsted.
 - 11.3.4. the Police
 - 11.3.5. other relevant voluntary organisations
- 11.4. Advice may be sought from 'Protect' (formerly Public Concern at Work), a registered charity which advises on serious malpractice in the workplace and can advise people whether they can or should take their concern further. They can be contacted on 0203 117 2520 or through the contact form on their website www.protect-advice.org.uk

- 11.5. Where employees do not feel able to raise concerns regarding child protection failures or have concerns about the way a concern has been handled by one of our schools, further advice can be sought from the NSPCC whistleblowing helpline. They can be contacted on 0800 028 0285 between 8.00am and 8.00pm, Monday to Friday or by email at help@nspcc.org.uk. Alternatively, they may write to the NSPCC, Weston House, 42 Curtain Road, London, EC2A 3NH.
- 11.6. The media, including social media, are not appropriate mechanisms for raising whistleblowing concerns and employees should be mindful of trust policies regarding the use of social media, code of conduct and data protection. Should an employee resort to this, it may result in disciplinary action against the individual concerned.

12. Monitoring and Evaluation

- 12.1. Our trust will review this policy at least every three years and assess its implementation and effectiveness. This policy will be promoted and implemented throughout our trust.
- 12.2. All whistleblowing allegations will be recorded in a central record and reported to our Trust Board on a termly basis. This will enable our trust to cross reference these with other complaints and monitor any patterns across our trust as well as ensuring action is taken to address concerns and monitor the effectiveness of the procedure.
- 12.3. Our headteachers will report any allegations on completion of an investigation, in a form that endeavours to maintain confidentiality as far as possible, to their Local Governing Body for information.

Flowchart

Whistleblowing Procedure

